

**Submission
No 161**

COMPANION ANIMAL BREEDING PRACTICES IN NEW SOUTH WALES

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**SUBMISSION TO THE JOINT SELECT COMMITTEE ON COMPANION ANIMAL
BREEDING PRACTICES IN NSW**

INQUIRY INTO COMPANION ANIMAL BREEDING PRACTICES IN NSW

12 June 2015

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ABOUT VOICELESS

As an innovator, capacity builder and ideas-generator, Voiceless plays a leading role in the development of a cutting edge social justice movement, animal protection.

With a highly professional and well-educated team, Voiceless brings together like-minded compassionate Australians from the legal, academic, non-profit and education sectors to form strong and effective networks.

Voiceless believes in the provision of quality information, analysis and resources to inspire debate and discussion and to empower individuals and organisations to generate positive social change.

Voiceless is a non-profit Australian organisation established in May 2004 by father and daughter team Brian and Ondine Sherman.

To build and fortify the animal protection movement, Voiceless:

- gives grants to key projects which create the groundswell for social change;
- cultivates the animal law community through the provision of leadership, educational opportunities and resources; and
- raises awareness of animal protection issues within the education system in order to strengthen democratic skills, promote critical thinking and encourage advocacy amongst students.

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DR JANE GOODALL, world-renowned primatologist and animal advocate

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We thank the Joint Select Committee on Companion Animal Breeding Practices in NSW (the 'Committee') for inviting public comment on the Inquiry into Companion Animal Breeding Practices in NSW (the 'Inquiry').

Given our expertise on the factory farming of animals in Australia, Voiceless is in a position to comment on the intensive breeding of companion animals in NSW.

Voiceless agrees with the Chair's comments that this Inquiry has the potential to reduce the incidence of animal mistreatment in the companion animal breeding industry.

In our view, for the Inquiry to provide meaningful recommendations for reform, the issues posed by companion animal breeding must be addressed in a holistic manner. This means the Inquiry must also take into consideration issues surrounding ownership, sheltering and community education in regard to companion animals.

It is important to acknowledge that companion animals are classified as chattels before the law, which neither reflects the public's invested value in these animals nor adequately protects the animals themselves. If the Inquiry is to result in meaningful legal reforms, it is crucial to reconsider the property status of companion animals.

Further, although this submission only directly addresses cats and dogs, Voiceless acknowledges the many welfare issues and inadequate legal protections that presently exist for other species of companion animals.

Voiceless respectfully submits the following recommendations:

1. *Viability of the Industry*

A community-wide discussion on the viability of commercial breeding is recommended. At present, commercial breeders continue to generate a market for animals despite the fact that pounds and rescue shelters are at full capacity. Data collected in 2011 found that 48,611 cats and 68,852 dogs were impounded on average each year in NSW since 2008.¹ Of this number of animals in pounds in 2010/11, about 60% of cats and 30% of dogs were killed.² The Inquiry must at least consider the viability of continuing to commercially breed animals given they are needlessly contributing to this huge killing of animals. For example, the Committee should consider imposing stringent restrictions on breeding; implement measures to ensure responsible adoption of animals; and, generate incentives for pounds/shelters to rehome animals. If a temporary ban on commercial breeding is not yet feasible, the number of animals kept and killed in pounds/shelters should at the very least inform the number of breeder licences issued under any relevant licensing scheme (discussed below at point 2) and restrictions on the availability of animals for sale in pet shops (discussed below at point 8).

2. *Licensing Scheme*

Voiceless recommends that a state breeder licensing scheme is necessary to ensure consistency across NSW and to assist prospective pet owners to identify registered breeders. This position has been

¹ NSW Companion Animals Taskforce, *Report to the Minister for Local Government and the Minister for Primary Industries* (October 2012) <<http://www.olg.nsw.gov.au/sites/default/files/Companion-Animals-Taskforce-report-to-Ministers.pdf>> Appendix 1, 4, 45-46.

² *Ibid* 49-50.

previously supported by the NSW Government.³ The ultimate intention should be to coordinate with other jurisdictions for a nationally consistent approach to breeder licensing and the implementation of a uniform registry of licensed breeders.

The Committee is aware of the deplorable conditions faced by animals in puppy mills and certain other breeding establishments. Voiceless does not need to canvass these issues in this submission. The necessary step for NSW, therefore, is to implement a strict statewide scheme to assess and grant licences to reputable breeders only. Breeders granted a licence under this scheme would become *registered breeders* in NSW. This scheme would replace any existing registration granted by local councils, breeding clubs or associations, and could be modeled on the system implemented in the Australian Capital Territory.⁴

An effective breeder licensing scheme would require:

- collaboration with other jurisdictions to create an online national register that is kept up-to-date and is publically searchable, with details sufficient to confirm currency of licences and to locate or confirm identity of registered breeders;
- registered breeders to comply with mandatory and legally enforceable standards (discussed below at point 3);
- an annual fee to renew a breeding licence, dependent on inspection of the premises to ensure compliance with welfare standards;
- permission for the RSPCA or AWL to conduct unannounced inspections of the premises;
- a requirement that breeding statistics are included and updated on the microchip register, to ensure animals are not used for breeding beyond maximum ages or litters (discussed below at point 3);
- a limit on the number of licences to be issued throughout NSW, based on shelter/pound rates; and
- a portion of registration fees be directed towards rehoming initiatives for abandoned animals and community education programs.

3. *Mandatory Legislated Standards*

The current *Animal Welfare Code of Practice – Breeding dogs and cats* should be replaced by mandatory legislated standards, which must be complied with in order to receive a registered breeder licence. This was supported in principle by the NSW Government.⁵ Voiceless agrees that this is a necessary component of reforming the industry, and recommends these standards be redeveloped through a rigorous public consultation process. Such redeveloped standards would conceivably prescribe:

- higher welfare standards;
- a limit on the number of litters per breeding animal;⁶
- a limit on the age at which animals may be used for breeding purposes;⁷

³ NSW Government, *Government Response to Companion Animals Taskforce Recommendations* (undated) <<http://www.olg.nsw.gov.au/sites/default/files/Government-response-to-Companion-Animals-Taskforce-recommendations.pdf>> 3.

⁴ See *Domestic Animals Act 2000* (ACT) s 74, which establishes a permit system for owning breeding animals; *Domestic Animals (Breeding) Legislation Amendment Act 2015* (ACT) establishes a licensing scheme for breeders.

⁵ NSW Government, *Government Response to Companion Animals Taskforce Recommendations* (undated) <<http://www.olg.nsw.gov.au/sites/default/files/Government-response-to-Companion-Animals-Taskforce-recommendations.pdf>> 3.

⁶ For example, the *Code of Practice for the Operation of Breeding and Rearing Businesses 2014* (Vic) ss 6(3)(c) and 7(3)(c), mandate that a female dog used for breeding must have no more than 5 litters in her lifetime and a female cat used for breeding must have no more than 2 litters a year and a maximum of 8 litters in her lifetime.

⁷ The rationale here is that setting an age limit would make it easier to rehome ex-breeding animals.

- mandatory microchipping at an appropriate age;
- mandatory desexing once a breeding animal reaches the maximum number of litters or breeding age;
- a prohibition of killing animals for commercial reasons;
- a prohibition on the inbreeding of animals; and
- a required statutory declaration at the point of sale or adoption.

4. *Ownership*

Voiceless does not support the treatment of companion animals as possessions, and refers to ownership only to the extent that it can be understood in the current legal framework. Many of the systemic issues faced by the companion animal industry can be addressed if an attitude of 'adoption' or 'guardianship' is embraced in place of 'ownership'.

In accordance with an adoption/guardianship approach, certain responsibilities must be invested upon the principal supplier of the animal to ensure that the animal will be transferred to an appropriate home. This will require some form of investigation by the supplier into the capacity and willingness of the intended adopter/guardian to care for the particular animal. The adopter/guardian simultaneously has a duty to ensure the breeder is registered and the animal is microchipped (if the animal has reached the statutory age for microchipping).

At the point of sale, a statutory declaration must be signed by both parties involved in the transaction. This is an extension of the NSW Government proposal to issue mandatory standardised information on socially responsible pet ownership at the point of sale.⁸ This statutory declaration must list the responsibilities and duties assumed by an animal adopter/guardian, including but not limited to requirements regarding:

- microchipping;
- desexing;
- prescription of an express duty of care;
- obligations under animal welfare law;⁹
- estimated costs of caring for the animal in an expected average lifetime;
- what to expect of the animal; and
- the necessity and costs of veterinary care.

5. *Microchipping*

A microchip with up-to-date details is currently the most effective means of ensuring a lost animal is returned to their home. An analysis of data from 2011 revealed that on average only 2% of cats and 34% of dogs impounded in NSW were returned to their owners.¹⁰ At present, the law does not require animal owners to update microchip details on an annual basis. Animal owners are required to microchip¹¹ and

⁸ NSW Government, *Government Response to Companion Animals Taskforce Recommendations* (undated) <<http://www.olg.nsw.gov.au/sites/default/files/Government-response-to-Companion-Animals-Taskforce-recommendations.pdf>> 3.

⁹ See *Prevention of Cruelty to Animals Act 1979* (NSW); *Companion Animals Act 1998* (NSW).

¹⁰ NSW Companion Animals Taskforce, *Report to the Minister for Local Government and the Minister for Primary Industries* (October 2012) <<http://www.olg.nsw.gov.au/sites/default/files/Companion-Animals-Taskforce-report-to-Ministers.pdf>> Appendix 1, 49-50.

¹¹ *Companion Animals Act 1998* (NSW) s 8.

notify of change to microchip details.¹² However, these requirements are rarely enforced. Voiceless recommends microchip details to be updated annually and supports the NSW Government initiative to provide an updated Companion Animals Register to provide centralised information about impounded animals for use by all councils and relevant agencies.¹³

The following obligations should be implemented as mandatory legal requirements:

- microchipping should be mandatory from an appropriate age;
- an animal may only be exempt from microchipping under the advice of a veterinarian;
- details attached to a microchip must be updated or confirmed on an annual basis (although the NSW Government expressed concerns about annual responsibilities, Voiceless argues that the benefit of annual registration outweighs the cost burden on owners);¹⁴ and
- a microchip can only be inserted by a qualified vet.

The following offences should be implemented as mandatory legal requirements:

- failure to ensure animals have been microchipped, unless exempt from the requirement;
- failure to update microchip register; and
- the insertion or removal of a microchip by a person other than a qualified veterinarian.

6. Desexing

As previously indicated, cats and dogs are in oversupply in NSW. Data collected in 2011 found that 48,611 cats and 68,852 dogs were impounded on average each year in NSW since 2008.¹⁵ This results in an extremely large number of animals being needlessly killed in shelters every year: in 2010/11 for example, about 60% of impounded cats and 30% of impounded dogs were killed.¹⁶ In addition to limiting and/or banning commercial breeding of companion animals, the number of animals can be reduced through mandatory desexing. This will assist in the prevention of unregistered breeding, and will also minimise rates of breeding by wild or displaced animals.

The following obligations should be implemented as mandatory legal requirements:

- desexing should be mandatory from an appropriate age;
- an animal may only be exempt from desexing under the advice of a veterinarian or when intended to be used as a breeding animal by a registered breeder;
- details attached to a microchip must be updated to confirm desexed status of animal;¹⁷
- when a breeding animal reaches a maximum number of litters or breeding age, the animal must be desexed; and
- desexing must only be conducted by a qualified vet, with pain relief for the animal.

¹² Ibid s 11.

¹³ NSW Government, *Government Response to Companion Animals Taskforce Recommendations* (undated)

<<http://www.olg.nsw.gov.au/sites/default/files/Government-response-to-Companion-Animals-Taskforce-recommendations.pdf>> 4.

¹⁴ See NSW Government, *Government Response to Companion Animals Taskforce Recommendations* (undated)

<<http://www.olg.nsw.gov.au/sites/default/files/Government-response-to-Companion-Animals-Taskforce-recommendations.pdf>> 4.

¹⁵ NSW Companion Animals Taskforce, *Report to the Minister for Local Government and the Minister for Primary Industries* (October 2012)

<<http://www.olg.nsw.gov.au/sites/default/files/Companion-Animals-Taskforce-report-to-Ministers.pdf>> Appendix 1, 4, 45-46.

¹⁶ Ibid 49-50.

¹⁷ It is recommended that the Microchip Register be programmed to create an alert when a registered breeding animal has reached the maximum number of litters or breeding age, and that a letter to the registered breeder be issued and necessary follow-up actions be taken.

The following offences should be implemented as mandatory legal requirements:

- failure to ensure that an animal has been desexed, unless exempt from the requirement;
- failure to inform adopter that an animal must be desexed by a certain age;
- failure to desex an animal after reaching a maximum number of litters or breeding age; and
- desexing conducted by a person other than a qualified vet.

7. *Advertising Sale of Companion Animals*

To address the issue of internet sales, which have the potential to undermine a licensing system for registered breeders, laws should be implemented to regulate advertisements for the sale of animals. Registered breeders must display their licence number alongside any form of advertisement. This would allow adopters and enforcement authorities to search on the register of licensed breeders to identify whether a registered breeder is responsible for the advertisement.

The following obligations should be implemented as mandatory legal requirements:

- the registered breeder must advertise its licence details; and
- the potential adopters/guardians must ensure they are acquiring the companion animal from a registered breeder by searching the register of licensed breeders to confirm the identity of the supplier.

The following offences should be implemented as mandatory legal requirements:

- failure to advertise the sale of an animal with a valid licence number (unless the advertiser is a recognised shelter or pound); and
- failure to purchase/adopt an animal without a valid licence number.

8. *Sale of Companion Animals in Pet Shops*

The availability of animals in pet shops encourages impulse buying, supports puppy farming¹⁸ and does not address the oversupply of companion animals. To address these issues, Voiceless strongly recommends the conversion of pet shops to advertise companion animals available for adoption from rescue shelters or pounds, and/or to sell such animals directly to the public.

The impact of banning the sale of animals in pet shops would obviously have an effect on the industry. Voiceless argues that this effect would only be negative for the illegal breeders who currently supply pet shops. Reputable breeders who do maintain high standards of animal welfare are undermined by the proliferation of animals generated by puppy mills. Those reputable breeders would imaginably qualify as a registered breeder under a proposed licensing system, and should the sale of animals be banned in pet shops, these registered breeders would be recognised as the only legal and reliable avenue for sale of companion animals. As for the impact on pet shops, these stores would presumably replace their current

¹⁸ It has been estimated that 95% of puppies in pet shops are sourced from puppy mills. See for example The Greens, *Abolish Puppy Farms* (undated) <<http://greens.org.au/initiatives/vic/abolish-puppy-farms>>.

trade agreements with established rescue shelters and pounds, and continue functioning as an outlet to find homes for animals.

9. *Alternatives to Killing*

As previously noted, tens of thousands of healthy companion animals are killed each year in NSW.¹⁹ With pet shops used to rehome companion animals, shelters and pounds should adopt a no kill policy. This would mean that an animal cannot be killed, unless recommended by a vet.

Additionally, Voiceless recommends that registered breeders should be legally responsible to rehome all animals involved in their establishment, including ex-breeding animals. It is also recommended that a portion of the licensing fees (if the licensing system is established) be directed to the costs associated with sheltering and rehoming animals.

The Committee is also encouraged to endorse the proposed Trap Neuter Release (TNR) project, which was introduced by the *Animal Welfare (Population Control Programs) Bill* (NSW) in 2014. TNR provides an economically feasible and humane alternative to the present wide-scale killing of abandoned cats.

10. *Public Education*

Voiceless recommends that a large-scale education campaign is necessary to prevent public engagement with puppy mills and unregistered breeders. Although the NSW Government has expressed support for an information sheet on issues relevant to the advertising of cats and dogs,²⁰ Voiceless believes that a larger scale campaign is necessary.²¹

Such a campaign would inform the public of the illegality of engaging with disreputable sellers and help the public understand that assuming responsibility for an animal entails a duty of care. This is consistent with an adoption/guardianship model. A key goal of such a campaign would be to achieve a greater awareness of animals as more than design accessories. A greater awareness of the duties of caring for a companion animal will lead to a reduction in the exploitation of animals in NSW.

A component of public education is encapsulated in the proposed statutory declaration to accompany any transaction involving companion animals, outlining specific duties in relation to microchipping, desexing, veterinary costs and a duty of care. These items should also be addressed in the larger public education scheme.

The above points are recommended at a time when the supply of animals from breeders, combined with the prevalence of abandoned animals in shelters and pounds, creates a sheer excess of animals that are unethically bred and killed. Should a system be implemented to rehome existing animals and limit the number of new animals bred each year, the measures recommended above could be reviewed when a sustainable equilibrium of animal numbers is achieved.

¹⁹ Data collected in 2010/11 found that, on average, 30,373 cats and 21,670 dogs were impounded and then euthanised per year in NSW. See, NSW Companion Animals Taskforce, *Report to the Minister for Local Government and the Minister for Primary Industries* (October 2012) <<http://www.olg.nsw.gov.au/sites/default/files/Companion-Animals-Taskforce-report-to-Ministers.pdf>> Appendix 1, 49-50.

²⁰ NSW Government, *Government Response to Companion Animals Taskforce Recommendations* (undated) <<http://www.olg.nsw.gov.au/sites/default/files/Government-response-to-Companion-Animals-Taskforce-recommendations.pdf>> 3.

²¹ An extension of the NSW Government's support for 'a community-wide socially responsible pet ownership education campaign'. Ibid 4.