

**Submission
No 56**

INQUIRY INTO ANIMAL CRUELTY LAWS IN NEW SOUTH WALES

Organisation: Animal Welfare League NSW

Date Received: 25 November 2019

Submission for Inquiry into NSW Animal Cruelty Laws
Animal Welfare League NSW



Overview of Animal Welfare League NSW

Animal Welfare League NSW™ (AWL NSW) is a registered charity that has been operating for over 61 years. We provide expert care to surrendered, neglected, injured and abandoned animals across New South Wales. Animal Welfare League NSW is made up of the following departments,

- Inspectorate
- Veterinary
- Shelters
- Administration
- Branch network

The Objects for which the Company is established are for the pursuit of charitable purposes, to apply its income to promote those purposes and including (but without limitation) the following:

- (a) To promote the welfare of animals in all forms.
- (b) To make provision for lost, neglected and abandoned and unwanted animals.
- (c) To educate the public in the care and management of animals.
- (d) To prevent cruelty to and neglect of animals.
- (e) To relieve the distress of and otherwise aid injured and sick animals.
- (f) To promote sterilisation of all companion animals and provide veterinary facilities.
- (g) To employ Inspectors to investigate the well-being or otherwise of animals.
- (h) To take or cause to be taken any legal action in relation to these objects,
- (i) To make public by any means the objects of the Company.
- (j) To provide teaching facilities in the care handling and training of animals.
- (k) To raise and administer funding for the Company to enable the Company to achieve its objects,
- (l) To encourage the making of gifts and testamentary dispositions to the Company to enable the Company to achieve its objects,
- (m) To make donations for charitable purposes.
- (n) To do all such other acts as are incidental or conducive to the attainment of the above objects.

AWL NSW's position on this Inquiry

Given the ongoing situation within NSW regarding animal welfare et al, we are adamant that a review and rewrite of the POCTA Act, is what is urgently required before any other inquiry is commenced. We have been actively contributing to this process being undertaken by policy advisors from the Department of Primary Industries. The select committee has been established to report on the effectiveness of arrangements for the enforcement of POCTAA, however this process is flawed from the outset as the Act (POCTAA) has not been rewritten since its inclusion into law in 1979. The larger effectors on this Act are simply defined by,

- Changes in farming practices
- Higher levels of population density
- Higher levels of animal ownership
- Higher levels of immigrants assimilating into the community
- Lack of appropriate levels of government funding for POCTA agencies
- Lack of effective government funded advertising for education on animal care
- Social media

Animal Welfare League NSW™ would welcome the installation of an Ombudsman for POCTAA enforcement agencies, as well as the continued oversight of the Department of Primary industries. However, we do not believe that the establishment of a specialist unit to investigate animal cruelty complaints and enforce animal protection laws, through NSW Police or a separate statutory enforcement agency should be considered effective.

The two incumbent agencies being RSPCA NSW and Animal Welfare League NSW should be given further appropriate funding from the government to allow for more Inspectors. These two bodies should have oversight of the enforcement of POCTAA, ensure local council animal control officers are compliant and knowledgeable on the Act and manage a database with NSW Police for intelligence sharing. Further to this we intend on extending our working relationship with NSW Farmers Association for the betterment of animal welfare outcomes into the future for rural communities and to better understand farming practices to ensure a symbiotic relationship between our two sets of members.

Further to this the current Greyhound Welfare Integrity Commission should be managed by both the RSPCA and AWL NSW to ensure no bias in reviewing and prosecuting cruelty and welfare cases by a self-policed industry.

Animal Welfare League NSW wishes to make clear that our current status of a Deductible Gift Recipient class one (1) has no bearing upon our effectiveness as an enforcement agency of POCTAA. The two characteristics of our organisation, being an enforcement agency of POCTAA and being a DGR class one (1) charitable organisation operate in parallel within the larger entity, one does not mutually encroach upon or dilute the appropriateness or effectiveness of the other.

1. That a select committee be established to inquire into and report on the effectiveness of arrangements for the administration and enforcement of the laws of New South Wales for the protection of animals from cruelty, and in particular:

(a) the effectiveness of the charitable organisations currently approved under section 34B of the Prevention of Cruelty to Animals Act 1979 (“the Act”) in achieving the objects of the Act, namely:

- (i) to prevent cruelty to animals,**
- (ii) to promote the welfare of animals by requiring a person in charge of an animal:**
 - (a) to provide care for the animal,**
 - (b) to treat the animal in a humane manner,**
 - (c) to ensure the welfare of the animal,**

1.(a) (i) (ii) - AWL NSW are proud of and stand behind our Inspectorate’s effectiveness. The numbers reported in our Annual Report 2017-2018 are,

- 1,292 Complaints were received by the Inspectorate
- 1,944 Attendances by an Inspector were conducted to investigate these complaints
- 59 Notices of direction were issued under 24N of POCTA 1979
- 29 Penalty notices were issued to offenders

These numbers are exceptional given that during this period our Inspectorate team totaled four professionals. The legislation as it stands does not allow for effective prevention due, amongst other

things to the constraint of Inspectors of accessing property where real and tangible concerns are held for an animal(s) welfare.

Since August 2011, Animal Welfare League NSW™ have subscribed to a policy of Getting2Zero, which states that if an animal is happy and healthy, we will take as much time as is required to rehome that animal.

Animal Welfare League NSW aim to achieve zero euthanasia for healthy and treatable animals giving thousands of animals statewide each year a second chance at life. It should be noted that AWL NSW, takes very seriously our responsibility to euthanise animals that cannot be rehabilitated and rehomed due to mistreatment, severe behavioural or medical conditions. There is no heavier weight of responsibility we bear.

Further to this staff are only offered positions with a high minimum training and experience level. Staff to animal ratio is based on a maximum of 1:15 and the welfare team consists of Animal Attendants, Team Leaders, Behavioralists, Management Team, Veterinary Nurses and Veterinarians.

We ensure that the standard of care is kept high with all animals in care being able to freely express the five freedoms of animal welfare being –

- Freedom from hunger and thirst
- Freedom from discomfort
- Freedom from pain, injury and disease
- Freedom to express normal behaviours
- Freedom from fear and distress

Our branch network, which currently stands at seventeen (17) statewide, also undertake a range of activities that support our effective delivery of animal welfare and prevention of cruelty through,

- Community engagement
- Community education as to best practice animal welfare
- Rehoming services
- Fostering services
- Providing food and prophylactic advice
- Actively engaging with local media outlets to promote the necessity of our work
- Reporting any suspected breaches of POCTAA to our Inspectorate

(b) the ability of the charitable organisations currently approved under section 34B of the Act (“the approved charitable organisations”) to achieve the objects of the Act, including:

(i) the level of funding provided by government,

(ii) perpetrator and community education about ensuring animal welfare,

(iii) any conflicts of interest or potential conflicts of interest between the investigation and enforcement of the Act, and one or more of the following:

(a) commercial activities of the approved charitable organisations including corporate sponsorship,

(b) industrial proxy membership payments or donations,

(c) private interests of board members, consultants, and senior staff,

(c) the adequacy of the standard of care and kill rates for stray, surrendered or seized animals under the control or supervision of the approved charitable organisations,

(d) whether it is effective and appropriate for non-government charitable organisations to be granted investigative and enforcement powers for criminal prosecutions under the Act, with regard to their:

(i) capacity to exercise those investigative and enforcement powers,

(ii) ability to exercise those investigative and enforcement powers in relation to commercial premises and intensive farm operations involving high numbers of animals,

(iii) ability to conduct cases to test the application of legislative provisions in the Act,

(iv) accountability to government and the community,

(v) exemption from the provisions of the Government Information (Public Access) Act 2009,

(vi) exemption from administrative review under the Administrative Decisions Review Act 1997,

1. (b) (i)- (iii) (c) -Within the Act, (POCTAA) there is no allowance for or recognition of the generation of funding from the government, this is not an object of the Act. The level of funding currently provided to AWL NSW Inspectorate is \$75,000.00 through an allowance made in the budgets of the Department of Primary Industries.

As outlined through our overview of statewide branch network and through our main branch at Kemps Creek inclusive of all social media channels made up by,

- **Linkedin – 806 people**
- **YouTube – 269 people**
- **Twitter – 1456 people**
- **Instagram – 15100 people**
- **Facebook – 140,198 people**

we undertake regular educational work to the community on the best standard of animal welfare. As a respected animal welfare organisation, we are regularly called upon by local, state and national media outlets as content matter experts. Most recently in regard to extreme conditions associated with the recent bushfire crisis.

Perpetrator education is a curriculum that AWL NSW would welcome, however our sphere of influence does not extend to writing legislation. During our contribution(s) to regular meetings with the Department of Primary Industries Senior Policy team we have highlighted the necessity for two things to this end,

1. Higher minimum sentences and fines for convictions under POCTAA
2. Mandatory education for convicted perpetrators, similar to drink driving offenders

Animal Welfare League NSW have two major contractual commercial relationships that support the provision of welfare for animals. These are,

1. Hills Nutrition – for the provision of food and training of staff and branch members on nutrition
2. Bayer – for the provision of topical treatments and training of staff and branch members

Neither of these two relationships have any effect on the work of the Inspectorate, due to the fact that contractually our Inspectorate is excluded from any of these arrangements.

Our commercial or for-profit activities are restricted to rehoming animals, accepting the surrender of animals and providing veterinary services. These three services are provided without bias to or from the AWL NSW Inspectorate.

AWL NSW Inspectors are employed after going through a strict recruitment process. Inspectors must have good animal handling knowledge and experience. They require ongoing training in relation to their role. Inspectors must have law enforcement or legal background and/or we require them to obtain a Certificate IV in Government Investigations at minimum.

Due to the role being very physically and psychologically demanding, we ensure all staff consider these strains. A valid driver's licence, criminal background check and medical health check is required and must be maintained throughout their time of employment.

Animal Welfare League is a member's based organisation, that is managed through a delegated authority to paid staff, under a constitution and Standard Operations Procedures. As such our Board members are all members of the organisation and duly elected by the members of the organisation on rotation at Annual General Meetings. Prior to becoming members, applicants are screened, and background checks are undertaken before approval.

As per the current Federal Legislation, Corporations Act 2001 , Accounting Standard AASB124 re related parties, remuneration, shareholding and options and related party relationships, each Director and Executive sign documentation every year to our appointed Auditor, Hall Chadwick that discloses private and financial interests. Similarly, all Directors must disclose any conflict of interest prior to every Board meeting which is recorded by the company secretary and reported to Hall Chadwick (Auditor).

AWL NSW does not allow for industrial proxy membership payments or donations.

(c) – AWL NSW is a registered 16D rehoming facility and as such we do not deal with stray animals, generally this is the responsible of animal control officers from local municipal councils. These councils provide for impound facilities, under current legislation that allows for animals to stay for seven (7) or fourteen (14) days depending on whether an animal is traceable to a current owner. In the case of cats or dogs for example, this would consider whether the animal has been microchipped, which is currently not mandatory.

As previously stated AWL NSW subscribe to a policy of Getting2Zero, which states that if an animal is happy and healthy, we will take as much time as is required to rehome that animal. No animal is euthanised due to time in shelter. To support this process and ensure an animal's welfare we employ a robust foster program that also allows for animals to be rehomed from foster inclusive of our statewide branch network. This is based on the fact that no animal will thrive in a shelter environment.

As previously mentioned, AWL NSW staff are only offered positions with a high minimum training and experience level. Staff to animal ratio is based on a maximum of 1:15 and the welfare team consists of Animal Attendants, Team Leaders, Behavioralists, Management Team, Veterinary Nurses

and Veterinarians. Our food suppliers, Hills Nutrition are recognised as one of the premium food providers available.

We ensure that the standard of care is kept high with all animals in care being able to freely express the five freedoms of animal welfare being,

- Freedom from hunger and thirst
- Freedom from discomfort
- Freedom from pain, injury and disease
- Freedom to express normal behaviours
- Freedom from fear and distress

The operating statistics for AWL NSW as reported in the Annual Report 2017-2018 are as follows,

- 2,107 Animals Rehomed (1,158 Cats and Kittens, 862 Dogs and Puppies, 87 Other animals)
- 396 Animals Euthanised (214 Cats and Kittens, 150 Dogs and Puppies, 32 Other animals)
- 411 Animals (147 Cats and 264 Dogs) were rescued from the pound
- 7,455 Animals desexed
- 411 Animals (147 Cats and 264 Dogs) were rescued from the pound

(d) (i)- (vi)- As previously stated in this document AWL NSW are proud of and stand behind our Inspectorate's effectiveness. The numbers reported in our Annual Report 2017-2018 are,

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These numbers are exceptional given that during this period our Inspectorate team totaled four professionals. The legislation as it stands does not allow for effective prevention due to in part, the constraint of Inspectors of accessing property where real and tangible concerns are held for an animal(s) welfare.

In consideration of exercising our investigative and enforcement powers in relation to commercial premises and intensive farming practices, involving high numbers of animals, our effectiveness remains constant. The logistical support behind each Inspector, as well as inter agency relationships is in support of this process and allows for Inspectors to be focused on welfare and prosecutorial responsibilities.

The ability of AWL NSW to test the application of legislative provisions in the Act (POCTAA) is undertaken every single time one of our Inspectors attends a property, issues a written direction (24N), charges a person with an act of cruelty and consequently takes the matter to court. This is what has lead to our opinion of the rewrite of POCTAA being a more important matter than a review of the two charitable agencies being AWL NSW and RSPCA NSW.

AWL NSW reports annually to the Department of Primary Industries, as to the activity of our Inspectorate and its effectiveness.

As a registered not for profit of sixty-one (61) years AWL NSW, Deductible Gift Recipient class one (1) is a publicly reportable entity. This is dictated by current legislation from the Australian Charity and Not for Profit Commission, the Australian Tax Office and is also affected by the Corporations Act 2001. All of our organisation's activities are a matter of public record and are independently audited. As a consequence of this robust process, guided by legislation AWL NSW is accountable to government and the general public through numerous reporting mechanisms.

Please find attached audited financial report that includes the directors report. We also note that the auditors additionally request on an annual basis that the directors specifically sign off on directors remuneration and the related party transactions under Corporation Act 2001 and Accounting standards AASB 124. Please find an example of the signed directors representation attached.

(e) whether any limitations and deficiencies of the administration and enforcement of the Prevention of Cruelty to Animals Act 1979 are common to other national or international jurisdictions which use similar models,

(f) whether the Government should establish a specialist unit to investigate animal cruelty complaints and enforce animal protection laws, either as part of the NSW Police Force or as a separate statutory enforcement agency, and

(g) any other related matter.