

Submission  
No 67

**INQUIRY INTO ANIMAL CRUELTY LAWS IN NEW SOUTH  
WALES**

**Name:** Name suppressed  
**Date Received:** 28 November 2019

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Partially  
Confidential

## **Cover letter – personal details within are confidential please.**

To Select Committee, Inquiry into Animal Cruelty Laws in New South Wales,

My name is \_\_\_\_\_ I work for a mobile petting zoo (farm animals) that was subject to an unannounced RSPCA NSW inspection of our farm premises on the afternoon of Friday November 3<sup>rd</sup> 2017 purportedly brought about by a call to them regarding a piglet with ringworm.

My role at the farm includes being responsible for health and welfare issues regarding the animals in our care. I hold a Certificate 3 in Captive Animals, and am currently studying Certificate 4 in Vet Nursing. I also have extensive hands on experience from working for a special needs dog rescue for 7 years – rehabilitating abused, neglected, and pregnant dogs for rehoming. I personally work closely with our treating veterinarian(s) to uphold the highest standards with regard to any animal health and welfare issues that may arise. We strive to maintain best practice in every facet of our business.

I was present at the farm on the day of the inspection and subsequent seizure of 17 animals (7 neonate goat kids, 1 juvenile goat kid, 1 juvenile lamb, 1 piglet, and 7 ducks). I was also actively involved in helping my employer and their legal representatives with our defence of the charges laid by RSPCA NSW with regard to those 17 animals.

I have access to the brief of evidence from RSPCA NSW, the inspector's bodycam footage of the inspection, the expert reports from RSPCA NSW and our side, witness statements, etc.

I submit that the unannounced inspection and seizure of animals was conducted in an overzealous manner, and possibly contravened (or at the very least, stretched the definitions of) sections of the Prevention of Cruelty to Animals Act and/or the Exhibited Animals Protection Act.

I also submit that, in my opinion, the care (or lack thereof) given to those animals seized once under the jurisdiction of RSPCA NSW and their treating vet either contributed largely to, or directly led to, the deaths of at least one (possibly 3) of those animals. This same level of care (or lack thereof) most certainly led to a worsening of another animal's condition prior to presentation to a treating vet some 2.5-3 days after it was seized – despite it being seized under the auspices of needing immediate veterinary attention/care.

7 of the other animals seized under the auspices of needing immediate veterinary treatment were never treated at all by RSPCA NSW or their chosen vet hospital. They were simply housed at the Yagoona shelter until my employer submitted to surrendering them.

1 animal seized was rehomed by RSPCA NSW at the end of December 2017 still with the issue it was seized for – they never found a cause for the problem, but obviously it wasn't so bad that they couldn't rehome it to a member of the public(?)

I also submit that upon my employer's request that RSPCA NSW appoint a "liaison officer" from RSPCA NSW to work with us to actively maintain the desired welfare standards to their satisfaction, that request was summarily denied by RSPCA NSW. We were/are prepared to have regular visits to our farm by an inspector so that we are all on the same page with regards to negating any possible issues... but RSPCA NSW are not interested in continuing education or guidance in that manner. We did manage to have 2 RSPCA NSW inspectors and a DPI official come and inspect our farm, animals, and business workings once (on 25<sup>th</sup> September 2018), during which ALL parties were satisfied that animal welfare standards were more than adequately being met.

I respectfully tender the attached full submission for your consideration...

# Submission to Inquiry into Animal Cruelty Laws in New South Wales

## Summary:

This submission relates to my opinion that on the afternoon of Friday the 3<sup>rd</sup> November 2017, 2 RSPCA NSW inspectors and a vet attending my place of work may have exceeded their purview with regards to conducting a 5 hour property-wide inspection based on a purported single phone complaint about a piglet with possible ringworm.

I question why bodycam evidence has a 30 minute gap, referred to in the lead inspector's statement of evidence as making a phone call to get RSPCA NSW legal advice.

I will also be detailing duty of care issues regarding the 17 animals (7 neonate goat kids, 1 juvenile goat kid, 1 juvenile lamb, 1 piglet, and 7 ducks) that were seized during that inspection by both the RSPCA NSW shelter staff, and the subsequent veterinary hospital some of the animals were transferred to some days after seizure. Those duty of care issues could possibly have led to the death of at least one of the neonate goat kids seized, and most likely led to irreversible complications for at least 2 others that eventually died in RSPCA NSW/vet care.

There is also a question regarding the timeframe for laying/tendering charges, and the tactics employed once charges had been tendered.

## Submission Body:

**Section 1: With regard to the actual inspection conducted on 3<sup>rd</sup> November 2017.**

***POCTAA Part 2a, Division 2, Section 24L – Period of search limited:***

***(1) An inspector who enters land under this Division must not remain on the land any longer than is reasonably necessary to achieve the purpose for which the land was entered.***

Surely investigating a piglet with ringworm doesn't require 2 trucks, 2 inspectors, and a vet to investigate for 5 hours? I tender that the actual reason for the visit was much broader than that given by the inspector(s) – especially as the bodycam evidence has a 30 minute gap that is explained in the lead inspector's statement as making a phone call to RSPCA NSW's legal advisors (this is not usual practice during an inspection).

Up until that phone call, only the piglet referred to as the reason for the visit was marked for possible seizure – even though we could have had it to a vet within 15 minutes if given the opportunity. This piglet did not receive ANY veterinary treatment until it had been in RSPCA NSW care for at least 2.5 days.

After the phone call, the inspectors went through all of the animals on the property again, with the female inspector actively overriding the vet's decisions regarding making recommendations rather than seizing various animals.

***POCTAA Part 2a, Division 2, Section 24I – Powers of inspectors generally to examine animals.***

***An inspector may examine an animal if the inspector suspects, on reasonable grounds, that:***

- (a) an offence against this Act or the regulations is being, has been or is about to be committed in respect of the animal, or***
- (b) the animal has not been provided with proper and sufficient food or drink during the previous 24 hours (or, in the case of the provision of food to an animal of a class prescribed by the regulations, during the period prescribed for that class of animal) and is still not being provided with that food or drink, or***
- (c) the animal is so severely injured, so diseased or in such a physical condition that it is necessary that the animal be provided with veterinary treatment and the animal is not being provided with that treatment, or***
- (d) the animal is so severely injured, so diseased or in such a physical condition that it is cruel to keep it alive, and the animal is not about to be destroyed, or is about to be destroyed in a manner that will inflict unnecessary pain on the animal."***

Bodycam evidence, tendered by RSPCA NSW inspectors, shows that ALL animals have food and fresh water readily available and are actively seeking attention from said inspectors/vet. All are behaving normally for their species type, and none are displaying malaise of any type.

Footage also shows the bottle feeding charts attached to the door of the neonate goat pen for the 3 fiddly feeders within, and the medical treatment sheets and ringworm notice on the pig pen door.

Written evidence regarding the recent visit from our business's treating vet on the 1<sup>st</sup> November 2017 detailing which animals were currently receiving specific treatment for any issues was summarily dismissed by the female inspector.

There is also a question as to the timing of this inspection, as it came just 2 weeks after RSPCA NSW had been largely unsuccessful in a previous case against my employer.

## **Section 2: With regard to duty of care issues once seized animals were under the care of RSPCA NSW/preferred vet hospital.**

### ***7 neonate goat kids – supposedly underweight, dehydrated, lethargic, and having respiratory tract infections:-***

All neonates had been seen and checked over by our treating vet during 3 separate visits to the farm during the 18 days they had been in our care – vitals were within normal ranges at each visit, and all were hitting normal developmental milestones.

I refused to allow RSPCA NSW inspectors to remove these kids from the property until I had fed them their afternoon bottle feeds – this process was watched by the RSPCA NSW vet in attendance for the inspection, and I tried to show her how to make sure the 3 fiddly feeders all got their required amounts (200ml each per feed). All seized neonates had full bellies when taken away. I also attempted to give the female inspector some of our goat milk formula, bottles, and teats to make their transition to the formula used at the RSPCA NSW shelter easier on their tummies, as sudden changes in diet (or delivery of same) can cause diarrhoea and/or the kids may refuse the new type of formula due to taste or teat type. The female inspector refused the offer, and indicated that she thought she knew perfectly well how to feed neonate goat kids.

When the RSPCA NSW vet queried whether the neonates should be taken to the Yagoona shelter, or to their preferred vet hospital (that was supposedly better equipped to deal with neonates), the female inspector overrode the vet's concern and indicated that the neonates would go to the Yagoona shelter.

Bodycam footage from inside the neonate pen clearly shows kids drinking from the automatic waterer, and the provision of hay and chaff/pellet mix for ad-lib consumption. It also shows the provision of adequate bedding material and heat lamps for warmth – and an area large enough for the kids to move to cooler areas if needed.

Transfer to the Yagoona shelter was via being crammed into cages in the back of the inspectors' trucks (no air-conditioning) and transported during peak hour traffic for 35km (approx. 1hour + travel time) to the shelter on a hot November day (30-32 degrees)... that would account for dehydration one could surmise.

As the evidence tendered by RSPCA NSW regarding the 7 neonates is somewhat sparse regarding the time they spent at the RSPCA NSW shelter at Yagoona prior to transfer to their preferred vet hospital, one could seriously question WHY the visibly healthy and active neonates that left our farm on Friday afternoon were in such a poor state when they finally arrived at the vet hospital on Sunday and Monday (kids were transferred to the vet hospital in 2 separate batches... why?)

Upon reading the evidence tendered by the preferred vet hospital regarding these 7 kids (treatment notes, treating vet's evidence, necropsy reports), there are also glaring gaps in information regarding their care/feeding – especially regarding the 2nd and 3rd kids that eventually died. Necropsy reports for at least 1 of the kids indicates most likely cause of death was aspiration pneumonia – which is especially concerning for the 2nd kid that died, as charts show that it was tube fed the day before it died. If the tube was placed incorrectly this would result in fluid pumped directly into the lungs, which would definitely cause death. I also question the conclusion drawn by the RSPCA NSW

preferred vet regarding cause of death in this kid as coccidiosis (in their expert evidence) – the necropsy report makes NO finding of any indicators of coccidiosis and clearly states cause of death as aspiration pneumonia.

Also of note is the fact that none of the neonate kids were ever officially diagnosed with any actual issue – it appears that the RSPCA NSW preferred vet had already made up their mind that poor husbandry was the root cause of all issues, and only treated empirically for possible problems relating to same – still, 3 kids died under the care of RSPCA NSW and their preferred vet, at least 2 of which could possibly be attributed to the level of care (or lack thereof) they received.

### ***1 piglet – ringworm, respiratory tract infection, and a suspected infected toe:-***

All 6 piglets at the farm were physically checked by our treating vet on 1<sup>st</sup> November 2017 – 2 days prior to the RSPCA NSW inspection – this particular piglet had been identified as possibly having ringworm, so all 6 were bathed in a medicated/fungicidal shampoo, and any lesions were treated with antifungal cream. This piglet did not have any other obvious issues or wounds noted during that vet visit. 2 other piglets were identified as having injuries to their toes and treatment plans were instigated for both.

Bodycam video of this piglet at the time of seizure does not show any favouring of the foot with the supposedly septic toe. It does show a small amount of redness and swelling of the toe. All footage of the piglet moving about looks otherwise normal on the day. No visible signs of respiratory tract issues are evident in the bodycam videos.

Apart from giving this piglet water in the carry cage the inspectors had placed it in, we were not allowed to have any access to this piglet. It was in the carry cage for approximately 2 hours+ prior to being transported to the RSPCA NSW shelter in Yagoona – a further 1hour+ drive. If given the opportunity, we could have had that piglet at a vet clinic receiving treatment within 15 minutes.

As this piglet was seized under the auspice that it needed URGENT veterinary treatment for its skin condition (no mention of the RTI or infected toe until CAN's served), one would question why NO treatment was given to this piglet until it was transferred to the preferred vet hospital 2.5 days AFTER seizure. Surely, a prophylactic dose of antibiotics was not beyond the abilities of a fully functional vet clinic/hospital at the Yagoona shelter?

### ***1 juvenile goat kid – poor body condition, dehydration:-***

At the time of seizure, the female inspector said this goat kid was being seized due to a respiratory tract infection due to an intermittent cough and some nasal discharge – this is recorded on the bodycam footage.

The kid was slightly underweight due to recovering from a bout of scours (diarrhoea) the previous week – medical notes were shown to RSPCA NSW inspectors regarding that issue at the time.

Transfer to the Yagoona shelter was via being crammed into cages in the back of the inspectors' trucks (no air-conditioning) and transported during peak hour traffic for 35km (approx. 1hour + travel time) to the shelter on a hot November day (30-32 degrees )... that would account for dehydration one could surmise.

This particular goat had ad-lib access to chaff/pellets, hay, and fresh drinking water from 3 automatic waterers in our roundyard outdoor enclosure – she was also being given a 600ml bottle feed once a day.

Upon reading the evidence tendered by the RSPCA NSW preferred vet, it appears that no cause for the intermittent cough was ever found, and the kid was rehomed to a member of the public on 28<sup>th</sup> December STILL with the issue.

### ***1 juvenile lamb – poor body condition, dehydration, diarrhoea:-***

This lamb had been under a treatment plan from our treating vet since 10<sup>th</sup> October for a compromised immune system/metabolic disorder – he had been gaining weight slowly under this plan. Records showing his diagnosis/treatment were shown to inspectors, but dismissed.

This lamb had ad-lib access to chaff/pellets, hay, and fresh drinking water from 3 automatic waterers in our roundyard outdoor enclosure – he was also being given a 600ml bottle feed once a day.

This lamb did not have active diarrhoea at the time of seizure, nor was he dehydrated. He was however stressed at being chased around the enclosure by RSPCA NSW inspectors, and transported during peak hour traffic for 35km (approx. 1hour + travel time) to the shelter on a hot November day (30-32 degrees )... that would account for dehydration one could surmise.

### ***7 ducks – pododermatitis/bumblefoot:-***

Our treating vet had physically examined these ducks on 3 separate occasions during the month prior to their seizure. Callouses were noted, but no infections evident, nor was there any lameness apparent. One duck was pigeon toed, which gave it a slightly awkward gait, but was otherwise perfectly healthy.

No lameness was apparent in the bodycam footage of RSPCA NSW inspectors chasing the ducks to catch them.

Inspections of 2 remaining ducks revealed no foot issues either –and subsequent independent culture swabs of both the seized ducks’ feet and our duck pen returned negative results for bumblefoot pathogens.

Of note is the fact that NONE of the 7 ducks seized received ANY veterinary treatment for their supposedly infected/infectious foot issues once delivered to the RSPCA Yagoona shelter.

### ***Other concerns regarding treatment (or lack thereof) of the seized animals once in the care of RSPCA NSW:-***

It must be noted that NO animal seized on the day (Friday 3rd November 2017) received ANY veterinary treatment whilst at the RSPCA NSW Yagoona shelter. The first batch of animals transferred to the preferred vet hospital weren’t sent there until late in the afternoon of Sunday 5<sup>th</sup> November – and even then, it appears that treatment was only ACTUALLY started on Monday 6<sup>th</sup> November – which was too late for the neonate kid that actually died that morning.

Of the second batch of animals transferred to the preferred vet hospital on the afternoon of Monday 6<sup>th</sup> November, it should be noted that ALL were only ever empirically treated for anything – no exact root cause for any treatment given was tested for to confirm diagnosis. Assumptions were made without investigation – as noted in the preferred vet’s expert evidence – which one would have to question when such assumptions are to be the basis for bringing a legal case against the owner of said animals.

The lack of any feeding/care information for ANY animal seized whilst in the care of RSPCA NSW Yagoona is worrisome. If one were cynical, one could draw the conclusion that care was withheld in order to make their claims/case stronger with regards to any health issues eventually treated after transfer to their preferred vet hospital. – or that care was severely lacking. This is especially upsetting with regard to the neonate goat that died on Monday 6<sup>th</sup> November, as proper care of poor feeding neonates is critical for their survival – 3 days of insufficient milk volume would certainly have led to a rapid decline in health.

### **Section 3: With regard to lodgement of charges/court attendance notices timeframes.**

#### ***POCTAA Part 2a, Division2, Section 24J - Powers of inspectors in relation to care of animals***

***(2) An animal (or carcass) to which section 24I (a) applies may be retained by an inspector for a period not exceeding 60 days or where, within that 60-day period proceedings are commenced in respect of the offence concerned, until the proceedings are finally determined (unless the court otherwise directs).***

Regarding the charges eventually laid and served regarding the 17 seized animals, Court Attendance Notices tendered early March 2018 have the date of attendance listed as 7<sup>th</sup> February 2017 – for offences dated 3<sup>rd</sup> November 2017 - no date of issue is recorded anywhere – and the brief of evidence relating to same was not tendered until 22<sup>nd</sup>/23<sup>rd</sup> March 2018. Even if the CANs were tendered in February 2018, that still would be outside the 60 days mentioned above? Technically, the charges/CANs would have needed to be submitted and tendered on or before the 3<sup>rd</sup> January 2018 to be within the 60 day timeframe.

**Section 4: With regard to RSPCA NSW refusal to appoint a “liaison officer” to work with us to actively maintain the desired welfare standards:**

As part of my employer’s agreement to plead guilty to one particular charge, and the offer of dropping all other charges, we requested an ongoing liaison to work with RSPCA NSW so that all parties would consistently be on the same page with regard to animal welfare standards. This request was indicated in the affirmative by RSPCA NSW legal representatives during the negotiations whereby my employer would enter a guilty plea, but was reneged upon after the fact.

Correspondence from RSPCA NSW Principal Solicitor states that RSPCA NSW has never and would never appoint liaison officers to work with anyone to maintain animal welfare standards, however the dog rescue that I worked for previously DID have an RSPCA NSW liaison officer appointed to their business. This arrangement worked very well to the benefit of both parties, and I was surprised that RSPCA NSW wouldn’t want to have an opportunity to provide ongoing education and guidance in the case of my current employer.

The only action that RSPCA NSW eventually allowed was an invited inspection of our property, animals, and business practices, along with a DPI officer, ONCE after the case was settled. This inspection was conducted on 25<sup>th</sup> September 2018, and all parties were satisfied that all conditions were being more than adequately met.

We are still open to having an ongoing positive relationship with RSPCA NSW in the form of a liaison officer arrangement. We believe that ongoing education and guidance in animal welfare standards would only be beneficial to all parties, and especially so for the animals in our care.

**Section 5: With regard to legal tactics employed once charges were laid:**

10 charges were laid as a result of the seizure of the 17 animals on 3<sup>rd</sup> November 2017. There were also 2 charges relating to an incident regarding a single goat from earlier in the year (April 2017). The charges were joined, then presented in 2 separate evidence submissions to my employer’s legal representatives.

Legal processes were drawn out, I believe unnecessarily, that appeared to maximise the legal expense incurred by my employer, with the obvious intent to either bankrupt or have the defendant capitulate to pleading guilty something (usually a single charge), so that RSPCA NSW could record a “win” that they could then represent as a positive outcome via media channels.

The offer to drop all but one charge in return for a guilty plea came one week before the full case was due to be heard in court, at which stage my employer’s legal representatives advised that our legal expenses would most likely almost triple from that already spent (which was already a very substantial sum). My employer agreed to plead guilty to the remaining charge purely for financial reasons – we had plenty of supporting evidence to fight all charges, but the cost of doing so was, quite frankly, prohibitive.

Court orders after the guilty plea/sentencing also indicate that neither party is/was to make any disparaging remarks/comment regarding the case, yet some of the details in the media reports of my employer’s case could only have come from RSPCA NSW, and they were less than flattering to say the least. This media attention resulted in some very nasty public backlash for both the business and our front line staff – mostly written/verbal, but there were at least 2 physical assaults (that I know of) attempted upon staff after the media reports about the case.

I tender that the RSPCA NSW tactic of filing multiple charges, then offering to drop all but one, is a common practice – and they rarely expect to have to fight all laid charges in a court setting. This tactic almost always results in a defendant pleading guilty to something simply because they can’t afford the full legal process to refute same. This is not how the legal system should be manipulated, whether or not it is common practice.

I also tender that RSPCA NSW application for a moiety of any fine imposed after a guilty plea is flawed. From my readings of NSW law, a moiety is no more than half of any fine imposed, yet the rumour mill has it that RSPCA NSW seeks the full fine amount(?) Regardless which (50% or 100%) portion of my employer’s fine was received by RSPCA NSW, it certainly would not have covered the expenses they claimed to have incurred in preparing/prosecuting this case. If this tactic is commonplace, then it is actually financially non-viable for the prosecuting party – unless the media attention garnered after such cases nets substantial donations for RSPCA NSW.