

Submission
No 130

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

Name: Name suppressed
Date Received: 29 November 2019

Partially
Confidential

Thankyou for the opportunity to lodge a submission to this much needed but also welcome Inquiry into animal cruelty laws in NSW.

NSW animal cruelty laws are outdated, weak, inadequate and compromised; riddled with loopholes, exemptions, self-regulation and conflicts of interest which are at odds with achieving and delivering what is in the best interests of all animals. Increasingly, the public have lost confidence with inadequate, ineffective and compromised legislation, a lack of monitoring, enforcement, prosecution and inadequate penalties being imposed against those who are found guilty of acts of neglect, cruelty and aggravated cruelty towards animals. Successful prosecutions similarly fail to deliver expected penalties and deterrents; rendering meaningful justice as impotent.

I am a wildlife carer and have been an advocate for wildlife and particularly our endangered species such as Greater Gliders, Koalas and Flying Foxes which are on a fast decline to extinction in NSW. We are removing their habitat for timber, coastal development and housing. Our extreme temperatures are having a huge impact on wildlife and drought is limiting their food source, not to mention catastrophic fires wiping out entire eco systems which may never return.

And our iconic kangaroo is slaughtered in the dark of night in an industry based on animal cruelty and deception regarding their accurate numbers. Kangaroos are killed in the largest wildlife slaughter to take place on earth. Something that we as Australians should be utterly ashamed of. And kangaroos use far less water and adapt to climate changes, which introduced farm animals do not. We need to start protecting and valuing our iconic native wildlife. Currently many of our unique native species are classified as pests and can be culled, often without the need for paperwork or accountability when economic priorities take priority. Introduced species face an even worse fate.

The culture of disregard for our wildlife is leading to horrific acts of intentional animal cruelty and these crimes are often hard to find a perpetrator. Even when a perpetrator is found these crimes are not being met with satisfactory punishment if at all. Education about animal welfare and about our iconic wildlife and their needs must be implemented in schools and in tertiary education.

No native animal should be allowed to be kept as pets as their needs which often include specialist diets and nocturnal living make them totally unsuitable to be kept as pets.

Our current animal welfare laws are more concerned about the protection and consideration of humans than of non-human animals. Farmed animals have their legal protections removed by Industry Codes of Practice which condone “standard” harms. If an animal is harmed in a way that is covered by one of these Codes, then that harm is legally neither neglect nor cruelty. Codes exist which permit acts that would be

punishable under POCTAA when done by farmers, hunters, slaughterhouses, breeders, racing clubs and scientists. These Codes are also written by the same people who profit from the animal exploitation in that industry. They are designed to place such industries beyond any real public or legal scrutiny. And with a recent push for Ag Gag style laws which would criminalise whistleblowers it makes it even more difficult for the public to expose acts of extreme cruelty in industry. Most of these codes only suggest best practice methods rather than have any enforceable or mandatory content. An example of this is the use of Sow stalls in piggeries where sows suffer for months on end without even being able to turn around.

Animals should be seen as individuals and not as property. All animals are capable of feeling fear, loneliness, pain and suffering, just as they can also experience companionship and joy.

Legislation

should guarantee the bodily security of non-human animals with protection from undue human interference. Animals should be given protection as individuals rather than being treated as an exploited commodity.

Whilst Greyhounds and horses are used and abused in the racing industry they should get the same protections as companion dogs and horses. Whips and tongue-ties should be illegal like jiggers and drugs. These industries need to be fully accountable for the numbers they breed and send to slaughter. All self regulation needs to stop. Banning of these industries is the only way to rule out the cruelty and death to animals. Rodeos are extremely cruel, particularly the event called calf-roping which sadistically abuses young animals. Rodeos need to be banned.

I RECOMMEND THE FOLLOWING

- Abolish the property status of animals and introduce uniform legislation which applies to all species of animals and protects them from human interference or harm.
- Introduce a publicly-funded and well resourced Independent Animal Protection Agency (IAPA) to enforce new legislation.
- Abolish Industry Codes of Practice and IAPA to oversee any transition period.
- Abolish self-regulation of any industry body that involves the use of animals.
- Facilitate Information sharing between law-enforcement agencies to stamp out animal abuse.
- Implement public awareness campaigns, education in schools and tertiary institutions and in industry training about non-human animals, their importance and their welfare needs. Education in compassion and empathy towards all species of animals must be included.
- Ban the use of 1080 and cruel lethal methods of animal control.
- Introduction of mandatory reporting of animal cruelty.
- Establish an Animal Cruelty Abusers register.
- Establish appropriate MOU's with all relevant government departments and/or agencies where animal welfare/cruelty matters apply.
- Create a dedicated and sufficiently funded and resourced Animal Cruelty Investigation unit within NSW Police or as a separate statutory enforcement agency
- Appoint specialist animal welfare police at all NSW Police stations and include better training for all NSW Police regarding their statutory role and responsibilities under POCTAA.
- Increase the animal welfare/cruelty focus within the NSW Police Rural Crimes unit and

review and ensure adequate funding and resourcing for specialist training, investigative, enforcement and prosecution tasks.

Realignment of RSPCA Inspectorate powers and funding, permitting it to refocus on animal care and to engage in public advocacy for animal welfare without any perception of conflict of interest.

A complete comprehensive review and overhaul of POCTAA and all Codes of Practice, removing exemptions, introducing enforceable standards, and broadening the legislation to include all non-human animals that are exploited by humans, subsequent to: (1) publication and comprehensive review of the 2018 NSW DPI Discussion Paper (Animal Welfare) public survey results, and (2) undertaking and publishing specific evidenced research into the sentencing outcomes of NSW animal cruelty offences in NSW as was undertaken in February 2019 by the Sentencing Advisory Council and their 'Animal Cruelty Offences in Victoria' Report.

Review existing MOU's between local, state and federal government departments and any other relevant office including the NSW state ombudsman to examine the sharing of information and handling of animal cruelty matters or potential animal risk, impact or cruelty matters, including complaints about the operation and performance of authorised animal welfare authorities.

Remove the capacity of any POCTAA authorised animal welfare agency or authority board member, executive staff or employees to benefit financially from the operations of the organisation through in-house or referred work without a public tender process being undertaken to ensure transparency and merit.

Overhaul and strengthen all NSW planning laws and the Secretary's Environmental Assessment Requirements (animal welfare inclusion) including local government LEPs and bylaws which impact the welfare of animals.

Introduce a new Animal Welfare NSW State Environmental Planning Policy (SEPP) to guide decision making with all matters involving the welfare of animals and introduce an animal welfare component in all other NSW SEPPs where the welfare of animals may be at risk.

Introduce a new and independent process for complaint investigations where complaints involve the operation, conduct or behaviour of any POCTAA authorised animal welfare agency or authority.

Introduce a new reporting criteria, format and frequency for POCTAA authorised animal welfare agencies or authority including a requirement for NSW Police to report to the relevant Minister.

Introduce annual government grant opportunities for all volunteer-based animal advocacy, rescue and re-homing organisations via annual grants funding. (as has been done in Victoria)

Through the Justice department, engage lawyers and members of the judiciary to provide a greater level of awareness and up to date resources in regards to legal precedents and public expectations regarding sentencing with animal cruelty cases including cases involving domestic or other human related violence which may lead to animal cruelty or involve animal cruelty.

Introduction of annual publicly accessible reporting by the responsible Minister to the NSW parliament on animal welfare matters including the performance of all animal welfare authorised agencies, prevalent and emerging issues and the outcomes achieved including through the courts.

SUMMARY

The recognition of sentience includes agreement that all animals have the capacity to feel pain, fear,

pleasure and each are unique individuals' with complex needs. They are ALL someone not something; Exemptions, notably for farm animals raised for food and by-products which permit cruel and abusive legally endorsed practices, scientifically evidenced as causing pain, suffering and cruelty, for some and not others, makes a mockery of the intent of laws to protect animals, prevent cruelty and promote welfare.

Animal cruelty is endemic in the commercial use of animals. Double standards abound, including within the consumer population. Exemptions are common in other jurisdictions and these exemptions are embedded in COPs. Although we like to believe that we live in a civilised society, our practices in relation to animals seem to indicate otherwise. Much of the problem arises from social, cultural and commercial conditioning. Public expectations have shifted dramatically thanks largely to significant awareness raised by animal advocates and activists. The Australian Department of Agriculture commissioned report titled Australias Shifting Mindset on Farm Animal Welfare <http://agriculture.gov.au/SiteCollectionDocuments/animal/farm-animal-welfare.pdf> found that 95% of people view farm animal welfare to be a concern and 91% want at least some reform to address this. Legislation designed to protect non-human animals cannot be selective – it must protect all animals in line with the scientific evidence of animal sentience and the internationally recognised Five Freedoms. This must apply equally to physical and mental well-being and cruelty prevention laws must apply equally to all species, be they native, companion, traditional farm or introduced species.