

**Submission
No 136**

INQUIRY INTO ANIMAL CRUELTY LAWS IN NEW SOUTH WALES

Organisation: RSPCA NSW
Date Received: 6 December 2019

SUBMISSION

Legislative Council Select Committee
on Animal Cruelty Laws in NSW

Royal Society for the Prevention of
Cruelty to Animals, NSW

Executive summary

RSPCA NSW is proud of a well-deserved reputation in the community for trust, integrity and dedication to both preventing cruelty to animals and promoting animal welfare. Being transparent and accountable to the community and Government is an organisational priority, and RSPCA NSW welcomes the opportunity to assist the Committee in this inquiry.

RSPCA NSW has been committed to the prevention of cruelty to animals in NSW for the last 145 years. RSPCA NSW has performed a statutory role in enforcing NSW animal cruelty legislation since 1928.

Today, RSPCA NSW operates throughout the State via the activities of the Inspectorate, a network of nine shelters, one care centre and four veterinary hospitals, 532 staff, 26 volunteer branches and thousands of volunteers. In the year ended 30 June 2019, RSPCA NSW spent \$53.5 million on operational costs, of which only \$1 million was provided by the State Government.

RSPCA NSW has a high public profile and a strong reputation, with almost 6,000 members, more than 3,000 volunteers and over 250,000 followers on social media. In the year to 30 June 2019, it received support from over 70,000 individual donors.

Every year, RSPCA NSW:

- Receives over 15,000 reports of animal cruelty or neglect from the community, each of which is investigated and appropriately addressed through a series of response options, ranging from education or support for animal owners, to written directions, penalty infringement notices or prosecutions for offences under the *Prevention of Cruelty to Animals Act 1979* (NSW) (the Act);
- Treats, shelters and re-homes many thousands of animals that are abandoned, stray, surrendered or seized;
- Supports the community in NSW in relation to animal welfare by delivering a range of targeted programs, including, for example, education in schools and through community organisations, and direct support to Indigenous communities, the aged, homeless persons, and victims of domestic violence; and
- Provides animal welfare assistance during periods of natural disaster, including drought, bushfires and floods.

As an organisation with extensive experience, a team of specialised and practiced Inspectors and an integrated network of veterinary clinics, animal shelters and education and community outreach programs – all directed to the prevention of cruelty to animals, RSPCA NSW believes that it is ready, willing and able to effectively and efficiently investigate animal cruelty complaints and enforce animal cruelty laws in NSW, having done so successfully for over 90 years.

The Terms of Reference are addressed in detail below, however, in summary, RSPCA NSW responds as follows:

- (a) **Effectiveness:** RSPCA NSW is as effective in seeking to prevent animal cruelty and promote animal welfare as current funding permits, and given that the Act is jointly enforced with NSW Police and the Animal Welfare League. Those objects represent the entire rationale for the existence of RSPCA NSW and drive all of its operational activities, particularly as outlined in the organisation's 2018-2023 Strategic Plan.¹ RSPCA NSW is highly effective in investigating and redressing cruelty to animals through enforcement action and the provision of education and support to animal owners.
- (b) **Ability:** RSPCA NSW's experienced and highly trained Inspectors operate across NSW. Their ability to achieve the objects of the Act is a function not only of their own specialist expertise, but also of their ability to draw on the state-wide resources of RSPCA NSW, including specially-equipped animal ambulances, dog trailers and horse floats, veterinary resources and a network of shelters dedicated to the care of stray, abandoned, surrendered and seized animals. RSPCA NSW does not believe that its work to prevent animal cruelty in NSW is compromised by any conflict of interest between this statutory role and its other functions, sponsors, donors or staff. The operations and decisions of the Inspectorate are demonstrably independent. There are no known examples, current or historic, of a sponsor, donor or staff member improperly attempting to influence any investigation or enforcement action by RSPCA NSW.
- (c) **Adequacy of care:** Last year, RSPCA NSW cared for almost 30,000 stray, abandoned, surrendered or seized animals. Those animals were treated by experienced and devoted veterinary staff and looked after by thousands of animal attendants and volunteers, each of whom strives to deliver the best possible standard of care and to re-home all animals that are suitable for adoption, free of any organisational time limits. Unfortunately, many of the animals that come into RSPCA NSW custody have suffered severe trauma, and some are in such poor physical and/or mental condition that euthanasia is the only humane option available. Over the last decade, RSPCA NSW has put significant effort into addressing factors that can contribute to an animal being unsuitable for adoption. RSPCA NSW focuses on behavioural interventions and utilises a large foster care network to support the gradual and skilled reintegration of animals into home environments. RSPCA NSW has access to a dedicated behavioural specialist and other highly trained animal behaviourists. As an outcome of those efforts, the euthanasia rate at RSPCA NSW has been reduced by more than 60% over the last seven years. Sadly, almost 65% of the animals euthanised are cats, which reflects the prevailing overpopulation of cats in Australia due to low rates of de-sexing and an ongoing challenge for animal welfare organisations nationwide.
- (d) **Enforcement capability and accountability:** The involvement of RSPCA NSW in the enforcement of animal cruelty laws exemplifies a model that has been tried and tested over many decades and across many common law jurisdictions. The participation of approved charitable organisations benefits the community

1 Annexure A – RSPCA NSW Strategic Plan 2018-2023.

by involving, in the enforcement of animal cruelty laws, a highly trained body of specialist and experienced Inspectors that are solely dedicated to the objectives of the Act, free from competing priorities and able to draw on the state-wide resources of RSPCA NSW to access veterinary care and shelter for animals that are stray, abandoned, surrendered or seized, and programs for the education and support of animal owners. RSPCA NSW provides charitable services that would otherwise need to be funded by taxpayers and promotes the involvement of the community in the enforcement of animal cruelty laws through the personal and financial commitments of its thousands of volunteers and supporters. RSPCA NSW has a team of specialists – trained officers that can be deployed in response to animal welfare emergencies, including bushfires, droughts and other natural disasters. RSPCA NSW directly reports to NSW Government on its activities. Prosecution outcomes are publicly available and, as a prosecuting authority, RSPCA NSW is accountable in the Courts in relation to investigative and prosecutorial conduct. Importantly, as a charity that depends on community support for its ongoing existence, RSPCA NSW necessarily operates with a high degree of transparency to the public and the media, which subjects its Inspectorate, shelter and clinic activities to close and constant scrutiny.

- (e) **Other jurisdictions:** The involvement of RSPCA NSW in the investigation and enforcement of animal cruelty laws is a model that has been adopted internationally and in other Australian jurisdictions for decades.
- (f) **A specialist unit:** The Inspectorate is a fundamental and integral part of the operations of RSPCA NSW. It is a critical component of RSPCA NSW's animal welfare framework and is essential to the delivery of better welfare outcomes for the tens of thousands of animals engaged with the organisation every year. RSPCA NSW is strongly of the view that any proposal which seeks to remove the powers currently exercised by its Inspectorate and embed those powers elsewhere, including, for example, in a newly created statutory body, will considerably compromise the prevention of cruelty to animals in NSW.

RSPCA NSW

RSPCA NSW is a community-based, not-for-profit, animal welfare charity that protects, cares for, treats and rehomes animals across NSW.

For the last 145 years, RSPCA NSW has been single-mindedly dedicated to the prevention of cruelty to animals. The organisation works to achieve this by advocating for animal welfare and actively promoting their protection and care, delivering widespread community education, providing shelter to animals in need, assisting animal owners to properly care for their animals, and advocating and enforcing compliance with animal cruelty laws.

As an integral part of its activities, RSPCA NSW has performed a statutory role in enforcing animal cruelty legislation in NSW since 1928. RSPCA NSW Inspectors are authorised under the Act and, consistent with their counterparts in other Australian jurisdictions, have the power to enter land (other than dwellings), apply for search warrants, examine animals suspected of being neglected, ill-treated or requiring veterinary treatment, seize animals and other evidence, and serve notices on responsible persons to rectify the neglect of animals in their care. The involvement of RSPCA NSW, as a charitable organisation, in the investigation and enforcement of animal cruelty laws exemplifies a tried and tested model that has been adopted internationally and in other Australian jurisdictions over many decades.

RSPCA NSW has a long history of providing animal welfare assistance during periods of natural disaster such as flooding, drought and bushfires, including, most recently, the NSW bushfire emergency. This assistance includes undertaking animal welfare assessments of animals impacted by bushfire and, where necessary, assisting in the humane euthanasia of animals that cannot be saved and are in distress. During times of drought, fire, flood and other critical and emerging incidents, RSPCA NSW has always provided support by evacuating animals, housing them where possible while their owners are evacuated, and providing feed, water and, if necessary, veterinary care. RSPCA NSW is formally included as part of the NSW Department of Primary Industries (DPI) emergency management plans.

From the commencement of the current bushfire emergency response on or about 11 November 2019, RSPCA NSW has deployed ten inspectors at evacuation centres including Hawkesbury, Wingham, Wauchope, Grafton and Kempsey, and its Inspectors have provided active support to the animal welfare assessment teams in the Wingham, Grafton and Kempsey areas. At the request of National Parks and Wildlife, and accompanied by a regionally-based Senior Inspector, the RSPCA NSW Chief Inspector has personally assessed animals across bushfire-affected regions and euthanised animals in cases where they have been so severely injured by fire that they are cruel to be kept alive. RSPCA NSW Inspectors remain on standby to assist with animal welfare assessments and outcomes, if required.

During 2018/19, as a consequence of the lengthy period of drought affecting NSW, RSPCA NSW Inspectors have been heavily involved in ensuring that stock animals are not becoming distressed, languishing in unacceptable condition or being transported in an unfit state. RSPCA NSW Inspectors have been inspecting and re-

inspecting large numbers of stock, engaging with owners, distributing DPI Drought Welfare Guides, educating producers and, where appropriate, exercising powers to issue legally enforceable written directions and, if necessary, recommending the commencement of stock welfare processes in accordance with Part 2B of the Act. As at November 2019, 24 stock welfare panels have been commenced, with RSPCA NSW Inspectors involved in eight active panels. These panels have so far assessed nearly 4,000 sheep, over 3,700 cattle, 200 calves and 188 horses. Each process has involved RSPCA NSW Inspectors and representatives of DPI and Local Land Services with expertise in the welfare of livestock attending the premises, inspecting animals, issuing directions and, where directed by the DPI Director General, seizing and selling stock. Without these panels, the welfare outcomes for a large number of stock animals would have been significantly worse. RSPCA NSW prioritises the proceedings of these panels to protect animals from unnecessary suffering, and the contribution of RSPCA NSW in this regard has been recognised by the DPI Director General.²

RSPCA NSW also assists NSW Government by providing frontline operational and stakeholder perspectives in the drafting and amendment of animal welfare legislation, regulations and codes of practice.³

RSPCA NSW currently employs 532 staff, has 3,140 volunteers and 5,964 members. RSPCA NSW has a high public profile, with more than 250,000 followers on social media. In the year ended 30 June 2019, it reached more than 44 million people via social media and attracted more than 1.3 million visitors to its website. RSPCA NSW is proud of a deservedly strong reputation in the community for integrity and trust. RSPCA NSW is constantly open to public scrutiny, in circumstances where transparency and accountability are critical to its continued financial support in the form of donations, volunteer services, and community engagement.

RSPCA NSW has 26 volunteer branches dispersed throughout the state, which undertake fundraising events, provide emergency boarding, foster care and adoption and, in many cases, subsidise veterinary treatment for animals in their area.

In the year ended 30 June 2019, RSPCA NSW:

- Spent \$32.4 million caring for animals in NSW;
- Received donations of more than \$32 million, from more than 70,000 donors;
- Answered 143,607 calls through its Contact Centre, investigated 15,673 cases of cruelty to animals, responded to 1,143 ambulance call-outs, rescued 368 animals and commenced 77 prosecutions;
- Rehomed more than 13,000 animals (including more than 10,000 domestic animals, 446 livestock animals and 101 horses) and fostered more than 5,000 animals;

2 Annexure B – Correspondence from DPI Director General 22.02.2019.

3 Including, for example, substantial input in the development of the National Stock in Saleyards Standards and Guidelines, and to the Animal Cruelty Sentencing Review as part of the NSW Government Animal Welfare Action Plan.

- Provided emergency assistance to 1,085 people in crisis situations, including homelessness and domestic violence; and
- Reached more than 350,000 people through education initiatives, including through 142 school visits and school holiday programs.

RSPCA NSW Inspectors encounter different causes of animal cruelty and neglect in the community. Often, cruelty or neglect is attended by ignorance, either of the law or of the suffering of animals in a person's care. There are also people in the community who, through no fault of their making, are unable to properly care for their animals, for instance, because of mental health issues, poverty, or homelessness. In these cases, RSPCA NSW provides education and support, working to address the very many preventable cases of cruelty in which small amounts of knowledge and support can make a considerable difference. In other cases, the cause is apathy; people who know what they should be doing but nonetheless neglect to do it. This often requires a combination of education, the use of other statutory powers (for example, a legally enforceable direction to the owner to undertake certain action) and, ultimately, the threat of enforcement action. Finally, RSPCA NSW Inspectors encounter cases of cruelty or neglect for commercial gain or with malicious intent. These can only be dealt with by the use of statutory powers and enforcement action.

RSPCA NSW regards its Inspectorate as fundamental to its operations. It has been, and remains, highly effective in investigating offences of suspected animal cruelty, exercising enforcement action and providing education to the community. The Inspectorate is a critical component of RSPCA NSW's animal welfare framework and is essential to the delivery of better welfare outcomes for the tens of thousands of animals with which it engages every year. RSPCA NSW is strongly of the view that to remove the powers currently exercised by the Inspectorate and embed them elsewhere, including, for example, in a newly created statutory body, has the capacity to considerably compromise the prevention of cruelty to animals in NSW and the welfare of its powerless victims – the animals themselves. RSPCA NSW addresses these matters further in relation to the Inquiry's Terms of Reference

Governance

RSPCA NSW is a company limited by guarantee and governed by a Board of Directors elected in accordance with its Constitution.⁴ There are currently eight Directors and one co-opted subject area specialist Director on the RSPCA NSW Board. Directors serve four-year terms, to a maximum of 12 years' uninterrupted service, with half of the Board subject to re-election every two years. Short profiles for each Director are attached at Annexure D.⁵

RSPCA NSW is one of eight state and territory RSPCA Member Societies in

4 Annexure C – Royal Society for the Prevention of Cruelty to Animals, New South Wales Constitution – November 2018 (the Constitution).

5 Annexure D – RSPCA NSW Board of Directors – Profiles.

Australia. RSPCA Australia is a federated organisation which establishes national policies and positions on animal welfare issues and works with government and industry to ensure that animal welfare issues are addressed.⁶ The RSPCA Australia Board is constituted by one nominated Director from each of the Member Societies, one recruited Chairperson and up to two recruited Directors. Dr Ian Roth has been the RSPCA NSW representative on the RSPCA Australia Board since 2019.

A brief overview of the principal activities of RSPCA NSW follows.

Shelters and Clinics

RSPCA NSW operates nine shelters, one care centre and four veterinary hospitals/clinics, each of which is dedicated to treating, rehabilitating and rehoming animals.

The shelters are located at Sydney (Yagoona), Hunter (Rutherford), Illawarra (Unanderra), Blue Mountains, Broken Hill, Central Coast (Somersby), Coffs Harbour, Orange and Port Macquarie. The veterinary clinics are located at Sydney (Yagoona), Hunter (Rutherford), Tighes Hill and Broken Hill, and the care centre is located at Tuggerah.

RSPCA NSW's shelters and clinics employ hundreds of animal attendants and veterinary nurses, as well as experienced registered veterinarians, pathologists, specialists and behaviourists to care for the animals in its custody. The shelter and clinic staff are available to treat all animals that come into the custody of RSPCA NSW, whether stray or through abandonment, surrender or seizure, and are dedicated to giving those animals the best possible chance of moving out of the shelter and into loving adoptive homes.⁷

In addition, 26 volunteer branches dispersed throughout the State undertake fundraising events, provide emergency boarding, foster care and adoption services, assist (financially and physically) with microchipping and de-sexing drives in disadvantaged communities, and often subsidise veterinary treatment for animals owned or being cared for in their areas.

The majority of animals that come into the custody of RSPCA NSW are companion animals (with an intake of 10,075 dogs and 15,688 cats⁸ in 2018/19), but RSPCA NSW also helps a wide range of other animals. In 2018/19, for instance, RSPCA NSW cared for a combined total of 3,919 stock animals (horses, cattle, sheep, goats and poultry), as well as "pocket pets" (such as rabbits, guinea pigs and mice) and even fish.

RSPCA NSW has permanent shelter accommodation across its nine shelters for 659 dogs and 548 cats, and for a further 26 dogs and 20 cats at the John Morony

6 RSPCA Australia, 'How We Govern Ourselves' (Web Page, no date) <<https://www.rspca.org.au/what-we-do/about-us/how-we-govern-ourselves>>.

7 Subject to surrender and/or court outcomes.

8 The large number of cats is in line with current statistics on stray and feral cat populations throughout Australia and internationally.

and Dillwynia Correctional Centres.⁹ Additional short-term accommodation can be created in cases of high-volume intake, which can arise in emergencies (such as bushfires), or through large animal seizures or surrender incidents as a result of the activities of the RSPCA NSW Inspectorate. RSPCA NSW has access to approximately 1,200 foster carers during periods of peak intake and in emergencies.

RSPCA NSW has relationships with 221 rescue, welfare and rehoming organisations, which increases the available carers for animals when needed. RSPCA NSW has access to 37 Petbarn adoption centres to increase its capacity to rehome cats and kittens, which is vital given the number of felines in RSPCA NSW care. In 2018/19, RSPCA NSW rehomed 865 animals to 74 different animal rescue groups.

Last year, RSPCA NSW answered 143,607 calls and processed 15,673 animal cruelty complaints through its dedicated Contact Centre.

The Community Team

The RSPCA NSW Community team encompasses Volunteer Support Services, Foster Care, Education & Training, and Outreach Programs.

The Community (Education) team delivers community-based education and outreach programs to a wide range of community organisations (such as Headspace, Scouts/Guides and Youth Off The Streets) and provides courses in schools from pre-school to tertiary level. In 2018/19, for instance, the team delivered 382 sessions to more than 15,000 participants, including over 10,000 primary and secondary school students in NSW.

RSPCA NSW is also the only non-university-based provider contracted by the University of Sydney to teach animal handling courses for veterinary students. It also provides nationally accredited courses as a Registered Training Organisation (RTO), including Certificate II in Animal Studies, Microchipping Cats and Dogs and Basic First Aid for Animals. In 2018/19, RSPCA NSW provided education and training to almost 950 students in NSW.

The Community (Programs) team provides community-based outreach support services in a variety of areas in the NSW community, including to the aged, the homeless and victims of domestic violence. These support services include, for example, low/no cost access to veterinary treatment, boarding, vaccinations and de-sexing procedures. In 2018/19, RSPCA NSW assisted more than 750 people (and almost 1,500 animals) through its aged care, domestic violence and homelessness assistance programs.

⁹ RSPCA NSW has a proud history of engagement with the NSW Department of Corrective Services (DCS). DCS provides kennels to house dogs that need one-on-one behavioural attention, and inmates who are suitable for entry into a program to provide that assistance. RSPCA NSW provides staff with experience in animal behaviour, and training to the inmates to care for the animals appropriately. This provides benefits to the selected inmates and gives the dogs the chance to rehabilitate over a longer period of time and to hopefully reach a stage where they are suitable for rehoming.

Since 2016, RSPCA NSW has also worked in conjunction with NSW Health to deliver the Indigenous Community Companion Animal Health Program (ICCAHP) in rural and remote NSW, aiming to improve the health and safety of First Nations children and families by providing veterinary services to their companion animals. In 2018/19, this program visited 10 Indigenous communities and assisted 457 people and more than 700 animals.

The Inspectorate

RSPCA NSW has been operating for 90 continuous years as an agency enforcing the State's animal cruelty laws. Over that time, Parliament has seen fit on numerous occasions to increase the statutory powers vested in those exercising enforcement authority in respect of animal cruelty legislation, including RSPCA NSW Inspectors.¹⁰

Overall responsibility for the administration and enforcement of the Act is shared by RSPCA NSW, the Animal Welfare League and NSW Police. Within RSPCA NSW, these important statutory powers are vested solely in the Inspectorate and, specifically, Inspectors holding a prescribed authority under Part 2A of the Act, duly issued with the approval of the Minister of the Department of Primary Industries.¹¹ As such, the structure and operation of the Inspectorate is distinct to other departments within RSPCA NSW.

Inspectorate personnel

The RSPCA NSW Inspectorate has a Chief Inspector and a Deputy Chief Inspector. Reporting to them are four Team Leaders, 32 permanent full-time Inspectors, each of whom is authorised in accordance with the Act, and five temporary Inspectors serving in government-funded contract positions.

Officers of the Inspectorate are distributed geographically across the State, with 13 Inspectors and two Team Leaders stationed at the Sydney metropolitan office at Yagoona; six Inspectors and one Team Leader in the southern regional team; and nine Inspectors and one Team Leader in the northern regional team.

On 28 August 2019, up to \$500,000 funding was made available to RSPCA NSW via NSW DPI in order to create five (four northern and one southern) temporary Inspector positions. This additional funding was provided from the NSW Drought Fund and the positions are to assist with a large number of Stock Welfare Panels and investigations related to the current drought. The funding is available to 30 June 2020 and is released as reimbursements via monthly invoices to the DPI Animal Welfare Unit.

RSPCA NSW Inspectors have a highly specialised skill set and hold qualifications in both government investigations and animal handling.

New Inspectors undergo training in emergency management in conjunction with NSW Police, complete the Certificate IV in Government Investigation and are

¹⁰ Annexure E – Historical legislative amendments and RSPCA NSW enforcement powers.

¹¹ *Prevention of Cruelty to Animals Act 1979* (NSW) (POCTAA) s 24D(2).

certified in humane euthanasia by the NSW Department of Health.

Many Inspectors also have additional qualifications and experience in veterinary nursing, generalist policing and/or law enforcement. Many have trained and served in a range of other law enforcement agencies prior to joining RSPCA NSW, including, for example:

- NSW Police: with 55 years of service at NSW Police held collectively by seven current Inspectors;
- NSW Fisheries: with 10 years' collective service among current Inspectors;
- Local Government: with 25 years' collective service as Council Rangers among current Inspectors; and
- Many with years of military service.

At present, the permanent members of the RSPCA NSW Inspectorate have a combined 318 years of specific law enforcement experience under the Act.

Other Inspectorate resources

The Inspectorate relies heavily on the state-wide resources of RSPCA NSW, including services provided by other arms of the organisation. For instance:

- Inspectors have access to, and frequently use, the services of six RSPCA NSW ambulance officers, as well as specially equipped animal ambulances, dog trailers and horse floats. When an Inspector attends an animal cruelty complaint, he or she can draw on the state-wide RSPCA NSW operational structure for assistance in transporting, processing and providing care to any animal(s) seized under the Act. Using those resources, whether the Inspector seizes one dog or 196 dogs, they are able to bring the animals into RSPCA NSW custody and subsequently triage, transport, house and treat them in accordance with the objects and provisions of the Act;
- Animals that are surrendered to, or seized by, Inspectors are treated and housed in RSPCA NSW's own shelters, where they are treated by RSPCA NSW veterinary nurses, experienced registered veterinarians, pathologists and specialists, and cared for by RSPCA NSW volunteers and animal attendants, who work to give them the best possible chance of ultimately moving out of the shelter into loving adoptive homes;¹² and
- The registered veterinarians at RSPCA NSW are available to the Inspectorate to provide timely and detailed expert opinion to ground enforcement and prosecutorial decisions made under the Act.¹³

12 Subject to surrender and/or court outcomes.

13 This requires evidence which is admissible in accordance with the *Evidence Act 1995* (NSW), and which can prove the elements of the offence charged beyond reasonable doubt. This is the same test for all criminal prosecutions whether they are commenced by RSPCA NSW, private prosecutors, NSW Police, Animal Welfare League, or the NSW Office of the Director of Public Prosecutions (ODPP).

Cooperation with NSW Police

The Inspectorate works closely with NSW Police.

RSPCA NSW has Memoranda of Understanding with NSW Police (and the Animal Welfare League) to ensure the effective and timely exchange of information, and to meet operational requirements across the State in relation to the enforcement of the Act.

NSW Police often refers animal cruelty complaints to RSPCA NSW. In 2019, for instance, this occurred on 211 occasions.

RSPCA NSW also sometimes refers complaints to NSW Police. This may occur, for example, where safety dictates the presence of a police officer, or where a regional Inspector is unable to attend a cruelty complaint in sufficient time to address the reported concern for animal welfare (bearing in mind that some of RSPCA NSW's regional Inspectors cover very large geographic areas and may be several hours drive from the location of a complaint, or attending another urgent complaint elsewhere in their area).

Enforcement action

In investigating suspected animal cruelty and evaluating what action should be taken in that regard, the RSPCA NSW Inspectorate operates under a strictly defined and well understood enforcement hierarchy, governed by the RSPCA NSW 2017 Standard Operating Procedures (SOPs), 2017 Inspectorate Independence Policy,¹⁴ and 2016 Prosecution Policy.¹⁵ In April 2017, these Inspectorate policy documents, as well as several pro forma documents (such interview templates), were provided to DPI for review. In September 2017, the DPI Director General confirmed receipt of the final policy documents and his expectation that they would govern RSPCA NSW Inspectorate conduct from that point forward. The SOPs accord with relevant NSW Police standard operating procedures (including, for example, the use of notebooks and other safeguards introduced by *LEPRA*¹⁶) and incorporate aspects of the NSW ODPP prosecutorial guidelines.

Over the last 18 months, in order to ensure that the Inspectorate and NSW Police utilise consistent enforcement rationales, the RSPCA NSW Community (Education) team (in conjunction with relevant local Inspectors) delivered presentations at 16 NSW Police Local Area Commands in relation to the capacity of police to exercise powers under the Act, and provided operational guidance in relation to what to do if a NSW Police officer seizes an animal. The Chief Inspector also liaises regularly with the Rural Crime Investigators (RCIs) and makes presentations annually at Conferences for Rural Crime Investigators and Rangers.

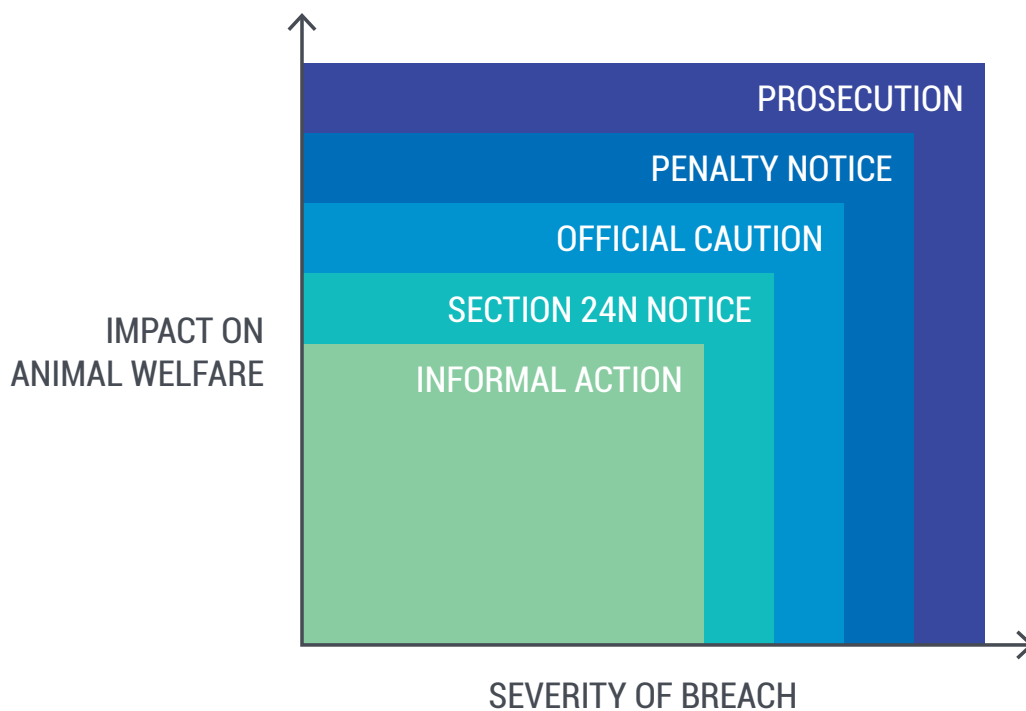
The Act provides for a range of compliance and enforcement mechanisms, allowing Inspectors to respond in an appropriate and graduated manner to complaints and, where detected, to any alleged offence according to the severity of the offence

14 Annexure F – RSPCA NSW Inspectorate Independence Policy 2017.

15 Annexure G – RSPCA NSW Prosecution Policy 2016.

16 *Law Enforcement (Powers and Responsibilities) Act 2002* (NSW).

and the impact on animal welfare. This graduated approach is illustrated by the following diagram:



In any given case, an Inspector may take one or more of the following steps short of recommending prosecution of an offence:

- **Informal action:** In investigating a complaint, an Inspector may liaise with the alleged offender, attend the location of any animals concerned and record relevant information. Inspectors can, in appropriate cases, offer advice and make requests regarding the treatment of the animals in question and follow up to monitor progress. If the alleged offender complies with the advice given and any requests made by the Inspector, the Inspector might then consider it appropriate to close the matter.
- **Written Directions pursuant to section 24N of the Act:** If an Inspector is satisfied on reasonable grounds that a person is contravening a provision of the Act or the *Prevention of Cruelty to Animals Regulation 2012* (NSW) (the regulations), he or she is empowered to give the alleged offender a written direction pursuant to s 24N of the Act, requiring that they take specified action regarding animal care (for example, presenting the animal to a registered veterinarian for examination within a specified period of time). Failure to comply with such a notice without reasonable excuse is an offence under the Act.
- **Official caution:** In appropriate circumstances, where an Inspector believes on reasonable grounds that a person has committed an offence for which a penalty notice could be issued, he or she may liaise with the Chief Inspector to give an

official caution,¹⁷ as an alternative to seeking an immediate penalty. Official cautions can be issued where a minor breach of the legislation or regulations has occurred, but where the animal welfare outcomes were not so egregious as to require more serious action to be taken. For example, an animal that was not provided veterinary treatment as quickly as was necessary given the situation, but ultimately the owner attended to the animal's needs appropriately. An offence of failing to provide veterinary treatment can be proved in those circumstances but, because of the outcome for the animal, a caution may be considered the more appropriate regulatory response.

→ **Penalty Infringement Notice:** Inspectors are also empowered to issue Penalty Infringement Notices (PINs) for prescribed offences under the Act and the regulations. Depending on the circumstances of the commission of an offence, the outcome to the animal and discretionary factors (for example, the response of persons in charge to directions issued, or their longstanding and otherwise untarnished record of animal ownership), it may be considered appropriate for an Inspector to issue a Penalty Infringement Notice, rather than to commence proceedings for the offence.

RSPCA NSW Inspectors work closely with the Community (Education) and (Programs) teams and, in appropriate circumstances, Inspectorate matters are referred to Programs for the provision of outreach assistance in lieu of enforcement action. These include matters where, for example, the animal owners and/or persons in charge need specialised support in the context of domestic violence, homelessness, social isolation or ill-health (whether physically or mentally). In other cases, an Inspector may identify that an owner needs help in better understanding how to care for an animal/animals or how to access assistance, and the Community team may provide them with educational material – for example, copies of DPI publications regarding animal welfare codes, drought relief packages or community and education resources on matters such as safe animal handling practices or routine animal husbandry.

An example of such an approach is provided by the following case study:

¹⁷ Pursuant to *Fines Act 1996* (NSW) s 19A.

CASE STUDY

In March 2018, the RSPCA NSW Contact Centre received a cruelty complaint regarding a German Shepherd and a Shar Pei. An Inspector attended and found the two dogs were emaciated, suffering from flea and worm infestations, and chronic ear infections. The Inspector seized the dogs in order to provide immediate veterinary treatment.

Upon investigation it became apparent that the owner was suffering significant financial hardship – she had six young children and told the Inspector that she was not eating herself, instead giving her food to the dogs. She said that her children were devastated that their family pets had to be taken by the RSPCA.

A determination was made that instead of enforcement action, the owner needed help caring for her pets and the case was subsequently

referred from the Inspectorate to the Programs team.

The dogs were treated for their fleas, worms and ear infections, and put on a nutritionally balanced diet to gain weight safely. The German Shepherd was de-sexed and the dogs were returned to the family home.

The owner was allocated a case worker who helped by providing no-cost vaccinations, flea and worming medications, dry and wet dog food, and clean bedding. The case worker continued attending the home. Unfortunately, the Shar Pei ultimately had to be humanely euthanised due to the onset of kidney failure. RSPCA NSW Programs staff assisted with transporting the dog to the veterinary hospital and subsequently arranged, and paid for, her cremation. Happily, the German Shepherd continues to live a full and healthy life, with the family who loves him.

Terms of Reference

This section of the submission seeks to address the issues raised by the Committee's Terms of Reference as RSPCA NSW understands them.

TERMS OF REFERENCE 1(A) - EFFECTIVENESS IN ACHIEVING THE OBJECTS OF THE ACT

- (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.

RSPCA NSW is one of three agencies engaged in the enforcement of the Act, working in conjunction with NSW Police and the Animal Welfare League (AWL).

The entire rationale for the existence of RSPCA NSW for the last 145 years (and the RSPCA globally for the last 195 years) has been, and continues to be, the prevention of cruelty to animals and the promotion of animal welfare. Accordingly, the objects of RSPCA NSW align naturally and closely with the objects of the Act, and RSPCA NSW's operational structure, strategic plan, and internal policies and procedures are all directed to achieving and promoting the objects of the Act. The ways in which RSPCA NSW sets out to achieve these are summarised above in the first section of this submission.

Supporters

Measured by its support from the community, RSPCA NSW is effective in its work. It enjoys, and is sustained by, the endorsement of a significant supporter base, including:

- 532 staff,
- 3,140 volunteers, including 600 regular foster carers,
- 5,964 members,
- 70,000 donors,
- 13,000 adoptive owners, and
- 260,000 social media followers.

All of these supporters are invested in RSPCA NSW's functions in promoting animal welfare and preventing animal cruelty, and their ongoing support is an implicit endorsement of the effectiveness of the organisation's work in that regard.

On 4 April 2018, RSPCA NSW emailed a poll to all supporters asking them to "have their say" regarding its strategic plan for the next five years. The poll was live for six weeks and received 837 responses from which the following findings were drawn:

- 518 respondents prioritised the work of the RSPCA NSW Inspectorate in enforcing existing animal cruelty laws; and
- In relation to services offered, the top three services identified by respondents were:
 - Sheltering homeless, injured, abused and neglected animals (94.61%),
 - Investigating acts of cruelty (93.41%), and
 - Prosecuting animal cruelty offenders (86.26%).

Complaints

The nature and extent of complaints made about the work of RSPCA NSW may provide an additional measure of its effectiveness. Although RSPCA NSW's work receives overwhelming support from the community in NSW, as with any organisation, from time to time RSPCA NSW receives complaints.

In the context of the Inspectorate, the most common complaints involve, on the one hand, people expressing concern that an investigation has not happened quickly enough and, on the other hand, people who are the subject of an investigation expressing dissatisfaction about the fact that they are being investigated and/or the method or manner of the investigation. Where a complaint is received in relation to an Inspector, the complaint is escalated through the chain of command via the Team Leader to the Deputy Chief Inspector and, where appropriate, to the Chief Inspector.

The Inspectorate also utilises a number of management techniques to review and assess the work of its Inspectors, including inspecting notebook entries, copies of correspondence and other documentation. The Inspectorate routinely utilises body-worn cameras (a procedure that NSW Police adopted nearly two years after RSPCA NSW), which also allows the Deputy Chief Inspector to review the footage of any engagement with the subject of an investigation as appropriate.

In relation to RSPCA NSW clinics, complaints typically relate (as with most veterinary practices) to unanticipated billing and/or disagreements regarding the veterinary advice given – for example, where a vet recommends that owners face difficult decisions about aged or very injured and unwell animals. In the first instance, the staff involved respond to any such concerns raised by a member of the public. Where appropriate, the complaint may be referred through the Practice Manager to the Managing Veterinarians, and finally to Animal Care Services senior management. Where possible, RSPCA NSW takes a conciliatory approach to resolving concerns, including by providing time to settle bills, referring clients to vetpay and, where appropriate, ameliorating billing in a compassionate way to reduce the financial burden of providing veterinary treatment. RSPCA NSW

veterinary clinics operate at a loss to the organisation, mainly due to the need to provide cost effective access to care for animals in order to promote the welfare of the animals concerned.

RSPCA NSW shelters and adoption centres are also open daily to thousands of volunteers, prospective adoptive owners, students, corporate supporters, locum veterinarians and members of the public, with no concerns being raised as to the standard of care being given to animals.

Overall, given the thousands of complaints of animal cruelty or neglect dealt with by RSPCA NSW, the thousands of animals received into its care every year and the number of owners dealt with by its vets (who are often dealing with traumatic and difficult decisions regarding their future), there are very few complaints received, and those which are made are monitored for any trends that might indicate emerging issues for consideration.

TERMS OF REFERENCE 1(B) - ABILITY TO ACHIEVE THE OBJECTS OF THE ACT

Level of Government Funding

- (a) 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

Level of funding – RSPCA NSW generally

RSPCA NSW’s annual and financial reports for the past nine years are available on the RSPCA NSW website and comply with the obligations detailed in the *Australian Charities and Not-for-profits Commission Act 2019* (Cth).¹⁸

The last five RSPCA NSW financial reports have identified the following “Government Subsidy” income from the NSW State Government:

Government Funding by Financial Year	
2014/15	\$502,645
2015/16	\$1,169,064
2016/17	\$1,096,691
2017/18	\$1,074,421
2018/19	\$1,096,642

¹⁸ RSPCA NSW, ‘Annual Report’ (Web Page, 2019) <<https://www.rspcansw.org.au/annual-report>>.

The 2018/19 financial year total for government funding includes the final \$500,000 instalment of a grant for an Education Centre, \$424,000 in Inspectorate funding from DPI, and smaller ancillary grants from NSW Government (including, for example, contributions from NSW Health for the ICCAHP program).¹⁹

Against this, the operating expenses of RSPCA NSW in the 2018/19 financial year were \$53.5 million, including \$31.5 million in staff costs.²⁰

In addition, RSPCA NSW benefits from occupying two sites on Crown land at less than the market rate:

- The Yagoona Shelter is subject to a Crown land lease which was recently extended to 2056. RSPCA NSW has continuously occupied the site since 1971 and currently pays rent of \$547.80 annually. As determined by the Valuer General, the current value of the Yagoona site is \$9.78 million. The age depreciated value of improvements made to the land by RSPCA NSW is \$10.55 million; and
- The Somersby Shelter is operated by RSPCA NSW as a non-Council Crown Land Manager following the commencement of reforms to NSW Crown land in 2018. Prior to these changes, RSPCA NSW operated the Somersby Shelter as trustee of a reserve trust under perpetual Crown lease. The current value of the site according to the Valuer General is \$777,000.00. The age depreciated value of improvements made to the land by RSPCA NSW is \$405,000.

RSPCA NSW has also received two DPI grants related to capital works in recent years:

- \$7.5 million over two years (1 July 2011 to 30 June 2013) for capital works including construction of the new veterinary hospital at Yagoona; and
- \$2 million paid in four instalments over 2015/16 to 2018/19 for the Education Centre at Yagoona (now in development).

In relation to future government funding, RSPCA NSW has received a \$12 million commitment from NSW Government for the purposes of rebuilding the Yagoona Shelter. RSPCA NSW has agreed to match the \$12 million in funding to complete this project.

Level of funding – The Inspectorate

In relation to Inspectorate-specific funding, RSPCA NSW issues an invoice to DPI for an agreed annual grant of \$424,000. That figure has been the annual DPI grant to fund the Inspectorate since 2005/06. Prior to that, the level of annual funding was \$212,000.

Against this, the direct expenses of the RSPCA NSW Inspectorate totalled \$6,233,041.41 in 2018/19, broken down as follows:

¹⁹ Annexure H – RSPCA NSW Annual Report incl Financial Report 2018-2019.

²⁰ Ibid.

2018/19 RSPCA NSW Inspectorate Outgoings:		
Inspector salaries	32 Inspectors	\$3,861,566.19
Motor vehicles	Including fuel, repairs, maintenance	\$619,225.20
Equipment costs	IT (hardware, licences)	\$74,040.44
	Telephone/internet services	\$65,188.00
Travel		\$130,047.23
Professional fees	Transcription services, interpreter services, etc...	\$14,375.68
Uniforms		\$23,659.80
Inspector training	Conference	\$5,511.51
	Training	\$48,673.08
Animals in inspectorate custody:	Including internal and external veterinary costs, shelter costs, feed and agistment	\$1,120,056.00
External legal costs:	Barrister briefing costs	\$36,667.06
Other:	Including pro rata leasing, insurance, water, electricity provision necessary for budgeting purposes	\$234,031.22
The total RSPCA NSW Inspectorate direct cost was \$6,233,041.41 in 2018/19		

Since 2014, RSPCA NSW has conducted prosecutions via in-house counsel and, where necessary, briefing barristers directly from the private bar. The current General Counsel has nearly 12 years of prosecutorial experience, including two years in-house at RSPCA NSW and nine years with the NSW Office of the Director of Public Prosecutions. In the 2018/19 financial year, General Counsel appeared in the NSW Local, District and Supreme Courts on 102 occasions, including 27 summary hearings in the Local Court and 12 appeals.

In addition to the direct costs outlined above, the Inspectorate draws heavily on the general resources of RSPCA NSW in discharging its responsibilities under the Act. This includes, for instance:

- The services of six RSPCA NSW ambulance officers and use of the organisation's specially equipped animal ambulances, dog trailers and horse floats. In 2018/19, the *Drive for Lives* program (that is, the RSPCA NSW ambulance team) cost \$505,739.17;

- The treatment of animals surrendered to, or seized by, Inspectors by RSPCA NSW's own veterinary nurses, experienced registered veterinarians, pathologists and specialists;
- The provision by those veterinarians of timely and detailed expert opinion to ground enforcement and prosecutorial decisions and actions under the Act; and
- The housing and care of animals surrendered to, or seized by, Inspectors in RSPCA NSW animal shelters.

These costs are not included in the direct costs summarised in the table above. In 2018/19, for instance, RSPCA NSW shelters cost \$18,172,634.30 to run, which includes operational costs and wages expended in caring for the animals in RSPCA NSW custody.

The level of government funding and the ability of RSPCA NSW to achieve the objects of the Act

RSPCA NSW considers that, given existing levels of government funding and with the generous support of volunteers and donors, the objects of the Act are achieved in significant measure in relation to the prevention of cruelty to animals and the promotion of animal welfare. With the benefit of its existing resources and the dedication and skill of its Inspectorate, RSPCA NSW has demonstrated particular ability to investigate and enforce the animal cruelty provisions of the Act to an extent that meets the essential needs of the community and animals of NSW.

That said, RSPCA NSW is of the view that community expectations surrounding the enforcement of animal cruelty laws and the improvement of animal welfare more broadly are increasing every year; and along with it, the need for, and demands on, RSPCA NSW.

There is, of course, always more that could be done with more funding. If RSPCA NSW had more funding available to it in the near term, for instance, it could:

- Maintain the additional five Inspectors whose positions are funded temporarily via the DPI Drought Fund – thereby retaining the expertise and local knowledge of those Inspectors, increasing the number of Inspectors who cover the regional and remote areas of NSW and reducing the distance between Inspectors in rural areas;
- Increase proactive inspections and the enforcement of large-scale, companion animal breeding operations to increase compliance, improve breeding standards and result in healthier companion animals being bred and sold in NSW, including through the eradication of poor and cruel breeding practices;
- In addition to companion animal breeders, increase proactive auditing and inspection for compliance across all s 24G animal trade establishments, including assessing compliance with DPI Standards and Guidelines in a variety of areas; and
- Enhance the ability of RSPCA NSW Community teams to work proactively with socially disadvantaged and isolated communities to support owners before Inspectorate intervention is required and thus prevent animal cruelty before it occurs.

Perpetrator and Community Education

- (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:
 - ... (ii) perpetrator and community education about ensuring animal welfare

As outlined above, the RSPCA NSW Community (Education) team delivers community-based education and outreach programs to a wide range of community organisations (e.g. Headspace, Scouts/Guides and Youth Off The Streets) and provides courses in schools from pre-school to tertiary level. In 2018/19, for instance, the team delivered 382 sessions to more than 15,000 participants, including over 10,000 primary and secondary school students in NSW.

RSPCA NSW Inspectors work closely with the Community (Education) and (Programs) teams and, in appropriate circumstances, Inspectorate matters are referred to Programs for the provision of assistance in lieu of enforcement action. In other cases, an Inspector may identify that an owner needs help in better understanding how to care for an animal/animals or how to access assistance, in which case the Education team may access and provide them with educational material, including, for example, copies of DPI publications regarding animal welfare codes, drought relief packages or community and education resources on matters such as safe animal handling practices or routine animal husbandry.

The RSPCA NSW Communications team, including the digital communications team, also uses various forms of traditional and social media to increase awareness of important animal welfare standards and developments. The Communications team publishes FAQs developed in conjunction with the Community team, Inspectorate and veterinary practitioners, and publicises community engagement days, including remote and regional outreach programs for low cost vaccination and de-sexing drives.

RSPCA NSW uses large-scale community engagement to sustain and enhance its educational objectives. For example, the national Million Paws Walk (attended by over 6,000 people in Sydney alone) proactively assists owners in accessing veterinary treatment and pet health education, and increases awareness for children regarding safe animal interactions. Other large-scale community initiatives include promotions like the RSPCA NSW Cupcake Day, which rallies support to fundraise and promote the vital services performed by RSPCA NSW across the state. On 25 September 2019, the RSPCA NSW Port Macquarie Branch received formal recognition of, and commendation for, its efforts in this regard in NSW Parliament from the Deputy Speaker of the Legislative Assembly, the Honourable Leslie Williams.²¹

²¹ Annexure I – Correspondence incl NSW Legislative Assembly commendation 08.10.2019.

Actual or Potential Conflicts of Interest – Commercial activities, including corporate sponsorship

- (b) (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:
 - ... (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:
 - ... (b) commercial activities of the approved charitable organisations including corporate sponsorship

It is sometimes suggested by those who do not sympathise with the activities of bodies such as RSPCA NSW or the need to make the protection of animals from cruelty a priority, that enforcement and, in particular, prosecutions are undertaken as a means of securing publicity and donations from supporters. As noted elsewhere,²² this accusation not only fails to recognise the reaction that would inevitably – and quite rightly – come from the Courts if such a policy or strategy existed, but it also ignores the substantial and often irrecoverable expense involved in the investigation and prosecution of offenders. As a means of fundraising, the investigation and prosecution of offenders would be of little, if any, utility.

RSPCA NSW is a member of the Fundraising Institute of Australia (FIA) and has adopted the FIA Code of Ethics and Professional Conduct for all fundraising activities – attached at Annexure J.²³ Clause three of that Code requires members to “act openly, honestly and with regard to their responsibility for public trust.” The Code further provides that, in relation to conflicts of interest, members must refuse a donation if accepting it “would compromise the interests or objects of the Cause on whose behalf the Member is Fundraising”. Members may also choose not to accept a donation where “the activities of the Donor are incompatible with the objects of the Cause on whose behalf the Member is Fundraising”.

The RSPCA NSW Fundraising team has two staff who are, among other duties, responsible for engaging corporate sponsorship through workplace giving, charitable donations, corporate volunteering and/or partnerships. These two staff report to the General Manager Fundraising. The structure and work practices of the Fundraising team are entirely separate from the operations of all Inspectorate employees. Fundraising personnel have no knowledge of Inspectorate investigations or prosecutions up to and including the time at which such matters are finalised in court. Nor do they have any authority to inquire into, much less direct or intervene in, Inspectorate investigations.

22 M Radford, *Animal Welfare Law in Britain – Regulation and Responsibility* (Oxford University Press, 2001) 380-381.

23 Annexure J – FIA Code of Ethics and Professional Conduct.

Corporate sponsorship

In 2018/19, corporate event sponsorship²⁴ to RSPCA NSW totalling \$81,732 was contributed by four companies as follows:

- Hill's Pet Nutrition, Inc.: \$62,532
- Krispy Kreme: \$10,000
- Bayer: \$5,000
- Love Pets Photography: \$4,200

In 2018/19, RSPCA NSW also received in-kind assistance from corporate enterprises²⁵ as follows:

- Hill's Pet Nutrition, Inc. – Pet food: \$559,969 (as part of a national agreement via RSPCA Australia)
- Bayer: \$130,000 (as part of a national agreement via RSPCA Australia)
- Western Pet Supplies: \$45,000
- Guinea Pigs Australia: \$14,700
- Purrfect Pet Products: \$13,000
- Purina: \$11,000
- Hill's Pet Nutrition, Inc. – Shelter signage: \$10,978
- Greenstone: \$6,000
- Woolworths: \$5,000
- Petbarn: \$5,000
- DHL: \$5,000
- Costco: \$5,000
- Hoyts: \$4,000
- Bunnings: \$3,000
- Kong: \$1,600

In 2018/19, RSPCA NSW also received corporate donations totalling \$638,716.23 (including \$463,775.98 from workplace giving, where employees provide regular donations through deductions from their pay).

RSPCA Australia commercial licensing agreements

RSPCA Australia enters licensing agreements to permit any use of the trademarked RSPCA logo. This is primarily pursued by companies interested in cause-related marketing activities. All funds received from licensing agreements are redistributed to RSPCA Australia's Member Societies. Other than through RSPCA NSW's representation on the RSPCA Australia Board, RSPCA NSW has no involvement in the policy foundation, operational decision-making or licensing provisions undertaken by the RSPCA Approved Farming Scheme.

24 This related to sponsorship for Million Paws Walk and Cupcake Day fundraising activities.

25 In-kind support was also received but not quantified from 20 additional companies (or their staff via workplace giving).

These agreements are currently as follows:

- The RSPCA's major National Nutritional Partner is Hill's Pet Nutrition, Inc.. As part of this agreement, Hill's supplies dog and cat food for animals awaiting adoption in RSPCA shelters nationwide, as well as providing event sponsorship; and
- RSPCA Pet Insurance is distributed and promoted by Greenstone Financial Services (GFS), issued by The Hollard Insurance Company, and administered through PetSure (Australia). GFS pays a licensing fee for use of the RSPCA brand and a portion of premiums are given to RSPCA Australia. All funds received from this activity are redistributed to RSPCA Australia's Member Societies.

In addition, the RSPCA Approved Farming Scheme (AFS) is a not-for-profit initiative operated by RSPCA Australia. Companies that choose to participate in the AFS must meet RSPCA Australia's detailed animal welfare standards and complete a rigorous assessment process. The compliance costs associated with the Scheme, including the ongoing assessments of participating farms, is covered by a licensing fee. This fee is paid by brands that use the "RSPCA Approved" logo in the marketing of RSPCA Approved products. The fee is quarantined and used only within the AFS to improve the lives of these farmed animals. No fees from the AFS are distributed to state or territory Member Societies, nor to any other part of RSPCA Australia's operations.

Independence

None of the above corporate sponsors has any knowledge of, or involvement in, the operations of the RSPCA NSW Inspectorate.

Only the Contact Centre and Inspectorate have any knowledge of the cruelty complaints attended by Inspectors at any particular time. There is no capacity for non-Inspectorate staff to have any involvement in, or influence over, Inspectorate decisions about enforcement and prosecution.

Both Fundraising and Inspectorate staff are acutely conscious of the vital enforcement role RSPCA NSW plays, and would never allow a corporate relationship to have any impact, or even appear to have any impact, on the execution of the Inspectorate's statutory functions.

Moreover, RSPCA NSW's relationships with corporate entities are often relatively short lived (that is, less than 12 months) and are ordinarily employee driven – for example, where an employee of a company personally supports RSPCA NSW and provides the impetus for the establishment of a relationship. The organisation's larger corporate partnerships (particularly those with Hill's Pet Nutrition, Inc. and Bayer) are nationally promoted and governed by detailed contractual parameters.

When corporate sponsorship is offered, RSPCA NSW carefully considers whether there is or may be any actual, potential or perceived conflict of interest between the activities of the proposed corporate sponsor and the values and operations of RSPCA NSW, and would not accept sponsorship where there was a real possibility of this arising.

Historically, there are no known instances where a corporate sponsor has improperly attempted to influence any investigation or enforcement action by RSPCA NSW.

Actual or Potential Conflicts of Interest – Industrial proxy membership payments or donations

- (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:
 - (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:
 - (b) industrial proxy membership payments or donations

The RSPCA NSW Constitution provides for two types of membership: full members and supporter members.²⁶ Only full members can vote at the AGM and, in accordance with clause 23 of the Constitution, members entitled to vote may appoint a proxy to vote and exercise all contingent rights on their behalf at general meetings.

RSPCA NSW has 5,964 individual members and 67 members that are incorporated entities. Of those incorporated entities, 66 took up life memberships with RSPCA NSW between 1990 and 2005, at which time the applicable life membership fee was only approximately \$120.00. No corporate entity has taken out membership with RSPCA NSW in the last two years. Members that are incorporated entities may nominate individuals to represent them at general meetings in accordance with clause 22 of the Constitution.

In the five years to July 2019, RSPCA NSW received only \$5,800.20 cumulatively from five of its 67 corporate members.

In the 2018/19 financial year, there were over 70,000 individual donors to RSPCA NSW. No single donor conceivably has the capacity to influence the determination of any RSPCA NSW policy, nor any involvement in operational decision-making by RSPCA NSW shelters, clinics or the Inspectorate.

Again, despite exhaustive inquiries, there is no known example of a corporate enterprise, individual employee of a corporate sponsor, or corporate donor to RSPCA NSW even attempting to influence any investigation or enforcement action by RSPCA NSW.

Actual or Potential Conflicts of Interest – Private interests

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

²⁶ RSPCA NSW Constitution cl 7.

The election and role of RSPCA NSW Directors is governed by:

- the *Corporations Act 2001* (Cth);
- the RSPCA NSW Constitution;
- a detailed code of conduct; and
- the Australian Charities and Not-for-profits Commission (ACNC) Governance Standards.²⁷

The *Corporations Act 2001*, for instance, imposes legal obligations on the Directors (and other officers) of RSPCA NSW:

- to exercise their powers and discharge their duties with reasonable care and diligence, in good faith and for a proper purpose; and
- not to improperly use their position, or information obtained by them from their position, to gain any advantage for themselves or any other person.

ACNC Governance Standard Five imposes similar obligations, including:

- Acting with reasonable care and diligence;
- Acting honestly in the best interests of the charity and for its charitable purposes;
- Never misusing their position or information they gain; and
- Disclosing actual or perceived conflicts of interest.

The RSPCA NSW Board has a conflict of interest disclosure policy, with which all Directors must comply if any risk of an actual, potential or apprehended conflict of interest arises. The conflict of interest policy requires immediate disclosure of any actual or potential conflict of interest (whether real or apprehended) between the interests of a Director and the interests of RSPCA NSW. Where the conflict relates to a material personal interest, the Director is excluded from any consideration of the conflicted issue and must not participate on any vote to determine the issue. Any disclosure is recorded in the minutes of the meeting and maintained on a register.

The engagement of RSPCA NSW consultants and staff is governed by individual contracts. RSPCA NSW is proud of its staff and volunteers, who are dedicated to the prevention of animal cruelty and to the welfare of animals in their care and who would not tolerate any improper attempt to influence any investigation or enforcement action by RSPCA NSW.

Each employee, member and volunteer also agrees to abide by a conflict of interest disclosure policy upon commencement and for the entirety of their association with RSPCA NSW. Employees, members and volunteers agree to act with care, diligence and in good faith in relation to their dealings with RSPCA NSW, and to disclose conflicts of interest if and when they arise.

There are no known occasions where a director, consultant or senior staff member of RSPCA NSW has improperly attempted to influence any investigation or enforcement action by RSPCA NSW.

²⁷ Annexure K – ACNC Governance Standards.

TERMS OF REFERENCE 1(C) – ADEQUACY OF STANDARD OF CARE AND “KILL RATES”

- (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

In 2018/19 RSPCA NSW received 29,682 stray, abandoned, surrendered or seized animals into its care. This included not only companion animals (cats and dogs), but also a wide variety of stock animals, “pocket pets” and other animals.

RSPCA NSW has adopted, and continues to comply with, the RSPCA Australia Position Paper on the “Operation of RSPCA Shelters”.²⁸ Registered veterinarians employed by RSPCA NSW are also governed by the terms of their registration with the NSW Veterinary Practitioners’ Board, and by the provisions of the *Veterinary Practice Act 2003* (NSW) and *Veterinary Practice Regulation 2013* (NSW) – particularly regarding the creation and keeping of treatment records, registers for the use of scheduled drugs and compliance with the Veterinary Practitioners Code of Professional Conduct.²⁹ RSPCA NSW clinics and shelters also have detailed policies and procedures to guide staff in their daily tasks and to inform best practice in RSPCA NSW facilities.³⁰

RSPCA NSW staff are experts in their fields – veterinarians, anaesthesiologists, pathologists, dentists, accredited animal behaviourists, veterinary nurses, animal attendants, and clinic and shelter administrative staff. Many veterinary, policy, Inspectorate and Community staff sit on ethics boards and animal welfare committees. Those experts, working with many hundreds of RSPCA NSW volunteers, strive at all times to give the best care possible to animals that come into the custody of RSPCA NSW, at times in extraordinarily dire conditions.

The Community (Education) team also delivers ongoing internal training to staff to ensure adherence to best practice, and to facilitate the adoption of new technologies and practices across the organisation. In 2018/19, for instance, such training was provided to 422 staff members.

RSPCA NSW has operated shelters, clinics and care centres across NSW for over one hundred years, with continuous occupation of the site at Yagoona for the past 48 years. In 2018/19, the RSPCA NSW Animal Care Services (ACS) team provided the following care to animals state-wide:

28 Annexure L – RSPCA Australia Position Paper A6 – Operation of RSPCA Shelters.

29 The code of conduct is detailed at *Veterinary Practice Regulation 2013* (NSW) sch 2.

30 Annexure M – RSPCA NSW Animal Care Services Policies and Procedures.

RSPCA NSW FY 2018/19 Animal Care Services:	
Total treatment costs for shelter animals	\$6,269,688
No. of microchipping procedures	9,705
No. of de-sexing procedures	7,004
No. of veterinary consultations	28,355
No. of dental procedures	1,464
No. of major surgeries	2,287
No. of vaccinations	10,835
No. of X-rays	508
No. of rescue groups worked with	75
No. of animals completing rehabilitation	458
Average length of rehabilitation per animal	35 days
Longest length of stay awaiting adoption - Dogs (incl those with microchip or tag ID)	171
Longest length of stay awaiting adoption - Cats (incl those with microchip or tag ID)	203
Total animals rehomed via Shelters	8,144
Total animals rehomed via Care Centres	1,135
Total animals rehomed via Petbarn partnership	2,803

RSPCA NSW makes every attempt to rehome all animals that are suitable for adoption. All animals that come into its custody are medically assessed and all adult dogs are also behaviourally assessed. Any dogs that display behavioural concerns undergo an intensive rehabilitation program to ensure that every animal put up for adoption is safe to be rehomed back into the community.

One of the rehabilitation options available to RSPCA NSW includes placing dogs with selected minimum-security inmates at the John Morony Outer Metropolitan Multi-Purpose Correctional Centre. In this peaceful environment, away from the shelter, the dogs receive a high level of attention and follow a training program devised by RSPCA NSW's specialty rehabilitation team until they are assessed as ready to be rehomed. Apart from increasing the chances of the dogs being rehomed, the Dog Rehabilitation Program gives inmates the opportunity to learn pet industry-related vocational skills.

RSPCA NSW also uses its foster network and specialist pet rescue groups to try and give animals with behavioural problems the chance to adjust to life after their seizure or surrender to RSPCA NSW, so that they can be safely rehomed.

Unfortunately, however, circumstances do arise requiring difficult decisions about an animal's life – for example, where an animal is in such a poor physical condition

that, as a matter of expert veterinary opinion, it is deemed cruel to keep the animal alive; where there is a significant risk to herd or shelter health; or where there is a significant and ongoing risk to the safety of other animals or humans.

The RSPCA NSW 2018/19 Annual Report contains the following statistics regarding shelter intake and animal outcomes:

Animal intake by outcome

	Rehomed	Still in care	Strays transferred to council impound	Transferred to rescue groups or another state	Reclaimed	Died in Care	Released	Other	Euthanised	TOTAL
Cats	7,652	1,239	6	282	563	203		8	5,735	15,688
Dogs	3,805	774	275	341	3,160	43		14	1,663	10,075
Horses	101	52	0	3	0	1		0	16	173
Livestock	446	42	1	52	32	10		1	263	847
Other	1,030	141	0	55	89	41		19	1,005	2,380
Wildlife		2	0	179	0	17	13	0	308	519
TOTAL	13,034	2,250	282	912	3,844	315	13	42	8,990	29,682

Canine euthanasia by reason

Behavioural	Infectious	Medical	Legal†	Organisational‡	TOTAL
1,220	36	360	40	7	1,663

Feline euthanasia by reason

Behavioural	Infectious	Medical	Legal†	Organisational‡	TOTAL
1,083	1,459	1,108	1,126	959	5,735

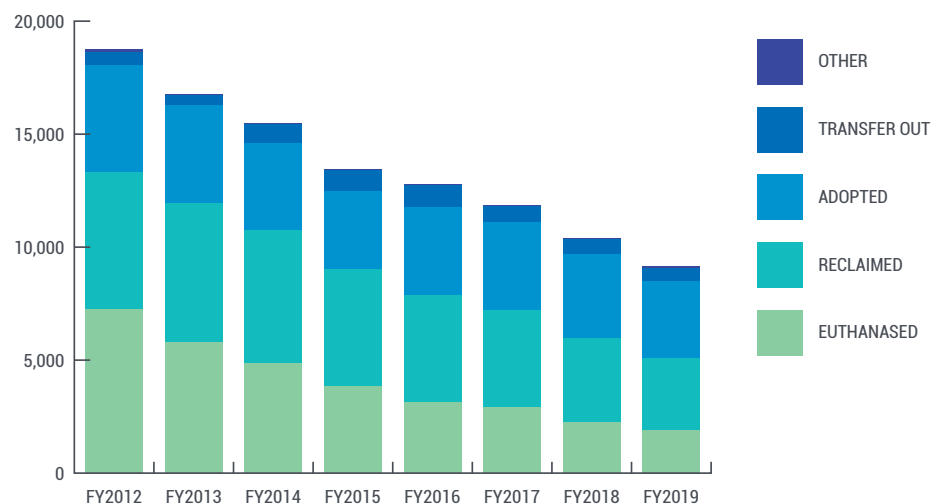
† Refers to animals deemed dangerous or menacing by local council

‡ Refers to unweaned or unviable animals too young to survive without their mother

Trends in these figures over time for the two largest categories of sheltered animals (canine and feline) are as follows:

Figure 1:

Canines Outgoing – Shelters, Care Centres & Petbarns

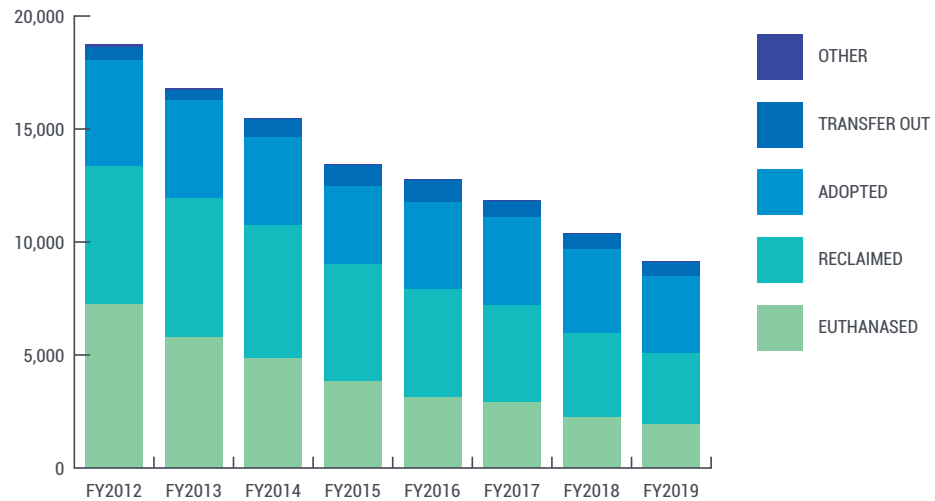


SUBMISSION

Legislative Council Select Committee on Animal Cruelty Laws in NSW
Royal Society for the Prevention of Cruelty to Animals, NSW

Figure 2:

Felines Outgoing – Shelters, Care Centres & Petbarns



Figures 1 and 2 depict animals outgoing from all facilities, regardless of whether the animal was under Council or RSPCA NSW control at the time it left care. The data also encompasses Shelters, Care Centres, Petbarn stores and the Port Macquarie-Hastings Impound Facility. Overall, the euthanasia rate at RSPCA NSW has dropped from 19,099 animals in FY 2011/12 to 7,638 animals in FY 2018/19, representing a more than 60% reduction in seven years.

Importantly, RSPCA NSW does not have any capacity to control the demand for Inspectorate, shelter or clinic services. As a result, one animal or (as happened in February 2019) as many as 187 animals might be seized or surrendered on any day, and the shelter needs to be in a position to accommodate such significant fluctuations in intake. In addition, RSPCA NSW has no control over the veterinary or behavioural condition of the animals received. For example, if a behaviourally aggressive dog is surrendered (often, precisely because of that aggression) and subsequently provided with behavioural enrichment, training, opportunity to acclimatise to the shelter environment and, in appropriate circumstances, behavioural medications, but the dog nonetheless continues to demonstrate aggressive or dangerous behaviours – very difficult decisions may have to be made.

RSPCA NSW has put significant effort in recent years into addressing the reasons why a companion animal may be assessed as unsuitable for rehoming. For instance, RSPCA NSW undertakes a great deal of in-house animal training and behaviour modification under the guidance of skilled staff. It also creates shelter and clinic policies based on contemporary, evidence-based best practice methodologies and subjects them to review experts and specialist vets internally. Where possible, RSPCA NSW may also take advice from animal behaviour specialists. RSPCA NSW continues to develop its outreach and internal animal behaviour programs to ensure that they best serve the needs of the community and the animals arriving into its care.

Where possible, RSPCA NSW places animals in foster care using its network of carers, mainly, but not exclusively, in relation to dogs and cats (and including an alpaca on one occasion). RSPCA NSW also utilises specialist rescue organisations,

particularly for breed-specific rescue, so that, for example, dogs from a breed that is known to require specialised care are not excluded from finding suitable homes.

CASE STUDY

Two dogs, “Axel” and “Vegas”, were surrendered to RSPCA NSW along with 128 other dogs. Axel and Vegas were assessed and, despite best efforts, classified as “grey dogs”.³¹ The staff just weren’t sure how the dogs would transition out of a breeding facility via a shelter and into the real world. Would they adjust and thrive, or would they continue to be fearful, anxious and potentially suffer?

Rehoming is, of course, one of RSPCA NSW’s main goals, but shelter staff cannot ignore an animal’s veterinary, behavioural or mental welfare just to get them into a home. The decisions are not

easy to make and take a panel of people involved for each and every individual dog.

In this case, staff saw a glimmer of improvement and contacted a rescue partner (who happened to be in Victoria) to see if they could take these two boys on and place them in a long-term, experienced foster home for extensive rehabilitation. The *Drive for Lives* ambulance transported Axel and Vegas to meet the rescue team halfway. On 25 November 2019, the rescuer sent a video to RSPCA NSW depicting two happy and healthy dogs playing in a backyard.

Finally, RSPCA NSW has no time limit for the rehoming of animals in its care. Where the animal is tolerating shelter and/or foster life, RSPCA NSW will continue working towards finding that animal a home. There are examples of dogs and cats finally being adopted after more than 12 months in the shelter and at foster homes. Staff have started taking long-term foster and shelter animals on excursions on weekends and even overnight, to establish positive experiences of life outside the shelter and to provide respite from shelter life until they are adopted.

In this context, one of the greatest ongoing challenges for RSPCA NSW, and animal welfare organisations Australia-wide, is the prevailing overpopulation of cats due to low rates of de-sexing. Every year, during the height of the feline breeding season, RSPCA NSW receives thousands of kittens at its shelters – many without a mother and too young to survive on their own. Every year, RSPCA NSW proactively de-sexes and vaccinates thousands of cats without charge or at discounted rates through its community outreach programs, to try and address the stray and undomesticated cat problem. The RSPCA NSW 2018-2023 Strategic Plan also details efforts to

31 K Fratt, ‘Grey Zone Dogs’ (2019) IAABC Journal (online) <<https://fall2019.iaabcjournal.org/grey-zone-dogs>>.

redress this problem by such measures as increasing the intake capacity of the clinic and shelter network and delivering programs and support services that seek to drive behaviour change among animal owners in a way that mitigates feline overpopulation.

RSPCA NSW is also engaging with organisations and councils to conduct pilot programs designed to reduce stray and undomesticated cat populations (including with City of Sydney Council, Maggie's Rescue and The Cat Protection Society) and to provide advice and assistance in that regard to other groups, including Sydney Dogs and Cats Home and several universities in NSW and interstate. Additionally, RSPCA NSW is currently in the development stages of a program with NSW Environmental Trust to promote responsible cat ownership and reduce predation on wildlife.

TERMS OF REFERENCE 1(D) – EFFECTIVENESS AND APPROPRIATENESS OF RSPCA NSW'S INVESTIGATIVE AND ENFORCEMENT POWERS

- (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 ...

RSPCA NSW has performed a statutory role in enforcing animal cruelty legislation for more than 90 years. The legislative powers granted to its Inspectors in that regard are common to their counterparts at RSPCA Member Societies in other Australian jurisdictions.

The involvement of RSPCA NSW, as a charitable organisation, in the investigation and enforcement of animal cruelty laws is a tried and tested model, that has long been adopted both internationally and in other states and territories in Australia.

The rationale for this model, in summary, is that it advances the welfare of animals and benefits the community through:

- The involvement in the investigation and enforcement of the animal cruelty laws of specialist organisations that are solely dedicated to that objective and which are able to deploy specialist officers with specific training and experience who are not subject to any competing priorities;
- Enabling those enforcement officers to operate as part of an integrated animal welfare organisation and to rely freely on the complementary resources of that organisation, which are similarly dedicated to animal welfare, including veterinary services, animal shelters, support programs for animal owners in need, specialist transportation and other animal management equipment and resources;
- The willingness of professionals in the community to contribute their services to the organisation free of charge or at reduced rates. This includes, for

instance, the assistance of barristers who appear for RSPCA NSW pro bono, and veterinary and other professionals who provide expert evidence for use in the prosecution of offences under the Act;

- Cost efficiency as a result of the management of enforcement officers and complementary resources alike:
 - by specialist organisations with long experience in operating to achieve maximum impact with limited resources; and
 - under the umbrella of a charity, which accordingly operates with an imperative of maximum efficiency dictated by its accountability to donors and charitable regulators (for example, the need to minimise overhead expenses and operate with high levels of transparency);
- Securing direct savings to the Government and the community by conducting activities that would otherwise fall to government (with commensurate costs to the taxpayer), with the cost of investigation and prosecution largely borne by those most interested in the enforcement of animal cruelty laws, rather than the public at large. This also means that the enforcement of animal cruelty laws does not have to compete with the countless other law and order issues that government must prioritise and fund; the enforcement of animal cruelty laws and promoting the welfare of animals are the only priorities of RSPCA NSW; and
- The direct involvement of the community in the enforcement of the animal cruelty laws via the interest and donations of thousands of volunteers and supporters, engaged both personally and emotionally in the one cause of preventing animal cruelty and promoting animal welfare.

Investigative and Enforcement Capacity

- (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

The capacity of RSPCA NSW to exercise the investigative and enforcement powers granted to it under the Act is primarily reposed in its Inspectorate. An overview of the capacities of the Inspectorate is provided above.

In summary, these comprise:

- A team of 32 specialist Inspectors, including the Chief Inspector and Deputy Chief Inspector, distributed geographically across the State. These Inspectors have a highly specialised skill set and hold qualifications in both government investigations and animal handling, and many also have additional qualifications and experience in veterinary nursing, generalist policing and/or law enforcement. Many have trained and served at a range of other law enforcement agencies prior to joining RSPCA NSW, including NSW Police, NSW Fisheries and Local Government. At present, the permanent members of the RSPCA NSW Inspectorate have a combined 318 years of specific law enforcement experience under the Act;

- Access to the other state-wide resources of RSPCA NSW, including:
 - The services of six ambulance officers and use of specially equipped animal ambulances, dog trailers and horse floats;
 - The network of RSPCA NSW animal shelters, where animals surrendered to, or seized by, Inspectors can be treated by RSPCA NSW veterinary nurses, registered veterinarians, pathologists and specialists, and cared for by RSPCA NSW volunteers and animal attendants; and
 - The services of RSPCA NSW's registered veterinarians to provide timely and detailed expert opinion evidence to ground enforcement and prosecutorial decisions under the Act.

In 2018/19, RSPCA NSW:

- Received and investigated 15,673 animal cruelty complaints (an average of 60.2 per day), which involved initial visits to many locations throughout the state and a further 3,866 revisits (an average of 14.8 site visits per day) to inspect the animals the subject of an original complaint and to assess compliance with verbal advice or written directions issued at the initial visit.

RSPCA NSW referred 1.2% of those complaints (190 complaints) to NSW Police for investigation. These referrals were made due to the urgent nature of the animal welfare concerns reported, in circumstances where there was no RSPCA NSW Inspector in sufficiently close proximity to attend in a timely manner. A number of these complaints initially attended by NSW Police were later returned to RSPCA NSW for revisit or follow-up.

Over the same period, one complaint was referred to AWL and 69 complaints were referred to other agencies in situations where the allegation fell outside the jurisdiction of the RSPCA NSW Inspectorate.

Outcomes of RSPCA NSW investigations over the last five years are summarised in the following table:

	FY 2014/15	FY 2015/16	FY 2016/17	FY 2017/18	FY 2018/19
Complaints	15,462	15,396	14,872	15,451	16,696
Investigations	15,012	14,953	14,278	14,190	15,673
Written Directions issued (s 24N)	192	223	133	223	248
Official Cautions Issued	0	0	0	2	7
Penalty Infringement Notices	36	64	87	36	37
Prosecutions Commenced	71	111	77	91	77
(No. of offences)	(323)	(490)	(302)	(404)	(353)
(No. of animals involved)	-	(867)	(1,840)	(533)	(4,397)
Prosecutions Finalised	36	66	55	50	75

These figures are in line with previous years, but depict a steady increase in complaints and resultant enforcement action over time. RSPCA NSW considers

the levels of prosecution to be appropriate in circumstances where the Act regards community engagement and educational efforts by the Inspectorate are representative of success in achieving its objects.

Commercial Premises and Intensive Farm Operations

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

Section 24G of the Act grants powers to Inspectors in relation to land used for certain commercial purposes. In relation to land used as a sale yard or an animal trade, Inspectors have powers to:

- enter;
- inspect and examine the land, any animal that is in or on the land and any accommodation or shelter that is provided in or on the land for any animal;
- take photographs, films, audio, video and other recordings as the Inspector considers necessary;
- inspect any advertisement, or means of publishing or broadcasting an advertisement, that is on the land;
- inspect and examine any register that is kept under the Act or the regulations and that is in or on the land;
- require production of any register; and
- take copies of, or extracts or notes from, any such register.

An animal trade is defined in s 4 of the Act as a trade, business or profession in the course of which any animal is kept or used for a prescribed purpose. Animal trades include primary animal producers, commercial companion animal breeders, pet shops, boarding and kennel facilities, groomers, pet minders, and veterinary clinics.

In 2018/19, RSPCA NSW conducted the following routine inspections relating to animal trades in accordance with s 24G of the Act:³²

32 Classified routine as distinct from complaint-generated inspections.

Inspections conducted on animal trades 2018/19

Animal trade	Routine inspections conducted 2018/2019	Cruelty complaints
Agricultural show	1 show (10 attendances)	
Boarding kennels	8	303
Breeding kennels	20	
Dairy farm	2	
Horse trader	3	
Pet shop/Market	19	156
Poultry farm	1	7
Riding school	3	11
Rodeo	1	2
Sale yard	36	12
Total	94	

Routine s 24G inspections are based on records detailing relevant animal trades in the relevant Inspectorate area, and intelligence gathered in and from the local community over many years (including the history of, and previous experience of Inspectors with, particular operators). RSPCA NSW is also currently recruiting for a Digital Intelligence Officer to support intelligence gathering in respect of large-scale animal trades, particularly in the context of companion animal breeders. This position is also designed to monitor compliance regarding obligations for the inclusion of a breeder identification number or rehoming organisation number in advertisements for the sale or giving away of companion animals.

RSPCA NSW supports the proposition that those who profit or seek to profit from animals should be regulated accordingly, and Inspectors attempt to police animal trades proactively and regularly to maintain oversight and fulfil the preventative aspect of the Act. However, the realities of a large case load and current court commitments means that routine inspections may have to be delayed if an urgent complaint is received and there is a risk of imminent suffering or death to an animal. The long-standing prevailing drought conditions have also meant that Inspectors have been checking and re-checking thousands of properties over the course of the year, thus reducing the capacity of those same Inspectors to undertake routine inspections.

All of RSPCA NSW's regional Inspectors are members of their local communities. They have knowledge of, and familiarity with, the commercial animal businesses and intensive farming operations in their region, often built up over many years. They also travel throughout their region by car every day, visiting locations where animal cruelty or neglect has been reported and, in the course of that travel, observe

what is happening in the fields around them with a keen, professional eye. This allows them, literally, to “keep an eye” on what is happening on the farms in their region.

The Inspectorate receives and responds to complaints of animal cruelty or neglect in animal trades, including commercial premises and intensive farming operations, in the same way as it deals with other complaints – investigating all complaints and prioritising those which involve imminent or urgent risks to animal welfare. As detailed above, this involves the Inspector triaging the situation and, where appropriate, giving written directions pursuant to s 24N of the Act (requiring specific action to be taken regarding animal care), giving an official caution, issuing a penalty infringement notice, or initiating the consideration of taking court action for an offence under the Act. Depending on the situation, an Inspector might identify that an owner needs help in better understanding how to care for an animal/animals or how to access assistance, and will work with the RSPCA NSW Community (Education) team to provide them with educational materials – including, for example, DPI publications regarding animal welfare codes, drought relief packages or community education resources on matters such as safe animal handling practices or routine animal husbandry.

Where the Inspectorate SOPs, RSPCA NSW Prosecution Policy and the application of decades in criminal enforcement and prosecutions dictate, RSPCA NSW commences criminal proceedings for offences under the Act. The commercial matters prosecuted by RSPCA NSW in the last two years are summarised at Annexure N.³³ They include successful prosecutions of dog breeders, a cattle breeder, a horse breeder, a barn-laid egg producer and a knackery/pet food producer. Some of the matters were resolved by way of guilty pleas entered early in proceedings, and others were listed for summary hearing in the Local Court, but ultimately finalised by way of pleas of guilty on the day of hearing. All matters resulted in convictions being recorded.

It is not possible to estimate what the proportion of animal trade matters resulted in educational efforts, informal action, the issue of s 24N written directions or PINs. However, given the typical numbers of animals involved, these matter are by their nature time consuming and often present practical difficulties, particularly in remote locations.³⁴

For example, one prosecution in 2019 involved approximately seven attendances at a property over seven months. In the end, three days of Inspectorate operations were required, involving:

33 Annexure N – Summary of RSPCA NSW commercial prosecutions 2017-2019. There are an additional four matters currently before the Court that involve large-scale commercial or agricultural operations. Appropriate prosecutorial conduct prevents those matters from being disclosed further at this time.

34 One seizure involving nine horses required Inspectors and vets to walk horses some 5-7 km out of an inaccessible property located at significant distance from the nearest regional centre.

- five Inspectors;
- two Local Land Services District Veterinarians;
- an expert veterinarian from Sydney University Teaching Hospital at Camden;
- an RSPCA NSW forensic pathologist who performed nine autopsies in the field;
- three sets of s 24N written directions (that were not complied with);
- officers from the Food Authority division of DPI; and
- advice from the Environmental Protection Agency.

Ultimately, the prosecution arose because the owner of the premises failed to comply with repeated directions issued by RSPCA NSW Inspectors, the failure of which resulted in the euthanising of 85 cattle. The defendant company was convicted and fined cumulatively \$13,500.

There are also instances of action being taken in animal trades in which a negotiated surrender has allowed RSPCA NSW to rehome animals before the situation necessitated the exercise of Inspectorate powers (for example, the surrender of 187 dogs from a single breeder in Coffs Harbour in February 2019). This is an example of an Inspector being aware of the animal trades in their area, maintaining an operational understanding of issues affecting the trade, and intervening where appropriate to prevent significantly worse animal welfare outcomes. RSPCA NSW accepted a surrender of animals at a point when the owner was not going to be able to maintain the premises as it was, and RSPCA NSW's intervention at that point in time avoided the more significant veterinary issues that are known to come from commercial dog breeding at an unsustainable level.

Large-scale surrenders or seizures put enormous strain on RSPCA NSW shelters and clinics. However, where it is necessary to protect animals, the Inspectorate intervenes in accordance with the powers afforded to it, and court processes are commenced to allow the public interest in prosecuting such matters to be fulfilled.

In respect of matters involving animal trades that are licenced via DPI or the food authority to perform certain functions, for example, in accordance with the *Exhibited Animals Protection Act 1989* (NSW), RSPCA NSW performs inspections in conjunction with DPI inspectors, who have powers to issue Penalty Infringement Notices or commence proceedings under different legislative/regulatory instruments. RSPCA NSW works in conjunction with DPI and Local Land Services to perform that function.

Given the necessary resources, RSPCA NSW would support an increase in routine animal trade inspections, as well as joint inspections carried out with other regulators with whom it maintains a very good working relationship.

Test Cases

- (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:
 - ... (iii) ability to conduct cases to test the application of legislative provisions in the Act

Prosecutorial decision-making in the context of animal cruelty is the same as prosecutorial decision-making in the general criminal context. The public interest is the paramount consideration.³⁵ Whether the public interest requires that a matter be prosecuted is resolved by determining, for each charge, the answer to three questions:

- ① Is there is admissible evidence capable of proving the elements of the charge before the Court?
- ② Can it be said that there is no reasonable prospect of conviction by a Court properly instructed as to the law?³⁶
- ③ Is there any other proper reason not to proceed to charging?³⁷

Where the answers to these questions dictate, RSPCA NSW prosecutes. The prosecution of an individual for an offence under the Act (whether successful or unsuccessful) can, however, have serious consequences for that person and, in the context of a decision about whether to embark on such a prosecution, whether the matter could be characterised as a “test case” would not be an appropriate consideration for either the law enforcement officer investigating, or the prosecutor prosecuting, the offence.³⁸

That is not to say, that prosecutions properly embarked upon by RSPCA NSW may not create precedent of general application or even “new law”. An example of this is the 2017 prosecution by RSPCA NSW of Nicholas Seafood Trader Co at Sydney Fish Markets, for committing an act of cruelty in the inappropriate butchery of a lobster. In summary, a member of the public saw conduct at the market which they considered cruel, they videoed it lawfully in a public place, and provided the footage and a complaint to RSPCA NSW. The Inspector allocated to the complaint compiled a thorough brief of evidence and the Chief Inspector gave a direction to undertake enforcement action. A Penalty Infringement Notice was issued to offending company. The company elected to bring the matter before the Courts and, having been convicted in the Local Court, lodged an appeal against the severity of the sentence imposed. As a result, there is now judicial consideration from the District Court of NSW regarding the nature of cruelty in relation to crustaceans. The matter contributed to significant research regarding the sentience of crustaceans and the

35 RSPCA NSW has adopted the NSW ODPP Prosecutorial Guidelines to the extent they are applicable.

36 This requires an exercise of judgment which will depend, in part, on an evaluation of the weight of the available evidence and the persuasive strength of the prosecution case in light of the anticipated course of proceedings, including the circumstances in which they will take place.

37 This requires consideration of many factors which might include such matters as (a) the seriousness of the alleged offence; (b) whether or not the alleged offence is of considerable general public concern; (c) the prevalence of the alleged offence and any need for deterrence; (d) the availability and efficacy of any alternatives to prosecution; (e) the likely outcome in the event of a finding of guilt, having regard to the sentencing options available to the court; (f) the degree of culpability of the alleged offender in connection with the offence; and (g) any mitigating or aggravating circumstances.

38 See also the NSW Solicitors Rules and Bar Rules.

judgment was covered by media around the world, including the Guardian³⁹ and Washington Post.⁴⁰ The certificate of expert evidence that was obtained to prove the elements of the offence charged remains invaluable as a source of instruction for Inspectors and as an educational tool used by the RSPCA NSW Community team.

It is also not to say that RSPCA NSW avoids testing the limits of the Act. Rather, matters that may require statutory interpretation have not proceeded to hearing. If the situation arose and RSPCA NSW considered it an issue that required judicial consideration, the fact that it might require considerable or expensive litigation (in the Supreme Court, for example) would not be a barrier to taking that course. Where appropriate, RSPCA NSW has in the past engaged Senior Counsel and benefitted from pro bono legal assistance from senior members of the NSW and Victorian Bar.

Accountability

- (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:
 - ... (iv) accountability to government and the community

Accountability to Government

RSPCA NSW provides an annual report to DPI in accordance with s 34B(3) of the Act and cl 34 of the regulations.⁴¹ That report encompasses a range of detailed information about the RSPCA NSW Inspectorate, including:

- a. complaints and investigations concerning the treatment of animals;
- b. counsel, advice or cautions given;
- c. notices issued;
- d. proceedings for offences instituted;
- e. officers of the organisation and training provided for them; and
- f. any complaints made about RSPCA NSW or its officers.

In addition, RSPCA NSW provides detailed and timely responses to all inquiries from DPI as and when they arise. Recent requisitions have involved, for example, requests for information as to the outcome of particular prosecutions, the status and outcome of particular Inspectorate investigations, and complaints and inquiries in relation to stock welfare panels.

39 N Zhou, 'Sydney Fishmonger convicted of animal cruelty over lobster treatment' (15 February 2017) *The Guardian* (online) <<https://www.theguardian.com/world/2017/feb/15/sydney-fishmonger-convicted-of-animal-cruelty-over-lobster-treatment>>.

40 A Greenwood, 'A Seafood company killed a lobster – and was convicted of animal cruelty' (8 March 2017) *The Washington Post* (online) <<https://www.washingtonpost.com/news/animalia/wp/2017/03/07/a-seafood-company-killed-a-lobster-and-was-convicted-of-animal-cruelty>>.

41 Annexure O – RSPCA NSW s 34B report to DPI 2018-2019.

RSPCA NSW regularly appears as a party in courts and tribunals from the NSW Local Court to the High Court of Australia. Matters commenced by RSPCA NSW are prosecuted summarily in the Local Court on numerous occasions each year. These court appearances regularly subject the enforcement action of RSPCA NSW to judicial scrutiny. Moreover, summary hearings are conducted with experienced defence counsel acting for accused persons, and by senior and experienced Magistrates who adjudicate RSPCA NSW matters on numerous occasions each year. In the last two years, no accused person has been acquitted. Following conviction at summary hearing, matters are also regularly appealed to the District Court. Again, in the last two years, no conviction in proceedings undertaken by RSPCA NSW has been overturned in the District Court on appeal.

Additionally, RSPCA NSW Inspectors regularly apply for and obtain search warrants in accordance with the *Law Enforcement (Powers and Responsibilities) Act 2002* (NSW). To the knowledge of the Chief Inspector and General Counsel, no application for a warrant by RSPCA NSW has been refused in at least the last two years. Reporting forms are also submitted in respect of the execution of every warrant, providing an additional level of administrative scrutiny by Registrars of the Local Court.

In these ways, there is regular and detailed judicial consideration of the Inspectorate's exercise of its powers in NSW. This provides reassurance that RSPCA NSW exercises its statutory powers in a fair and lawful manner, and that the prosecutions it commences are consistently judged to be in the public interest.

As a registered charity, RSPCA NSW is also accountable to government through its conduct and reporting obligations to the Australian Charities and Not-for-profits Commission (ACNC). These include a requirement that RSPCA NSW provide detailed financial reports, audited financial statements and Annual Information Statements to the ACNC in accordance with the *Australian Charities and Not-for-profits Commission Act 2012* (Cth). These reports have been made publicly available on the ACNC website since 2012.⁴²

Accountability to the community

As a charity that depends on public support and donations to continue its operations, RSPCA NSW believes that it has a duty to make its operations transparent to the community and to be responsive to public expectations and concerns. RSPCA NSW is financially dependent on public support and its reputation integrity, trustworthiness and effectiveness is fundamental to its continued survival.

The operations of RSPCA NSW are conducted with a high degree of transparency and accountability to the public. For example:

42 Australian Charities and Not-for-profits Commission, 'The Royal Society for the Prevention of Cruelty to Animals, New South Wales' (Web Page, 2019) <<https://www.acnc.gov.au/charity/54c906b8d746e1a151a6729d1a32b4d6>>.

- RSPCA NSW's financial records and annual reports are publicly available both on the RSPCA NSW website and on the ACNC website. They are provided in hardcopy on request;
- RSPCA NSW ensures that the community, its supporters and others interested in animal welfare are regularly updated on its activities through emails, blogs, website and social media. RSPCA NSW has more than 266,000 followers across all social media platforms and its social media posts reach more than 37 million users each year. In the last twelve months, RSPCA NSW was mentioned in print media, radio and television media on 4,800 individual occasions, reaching a cumulative potential audience of 282,987,937.⁴³ It regularly issues media releases to keep stakeholders informed as to current issues in animal welfare and the outcomes of its investigations and prosecutions.
- RSPCA NSW makes every effort to respond as openly as possible to all inquiries about its operations by members of the public and other stakeholders (bearing in mind that some information about operational policies, ongoing investigations and prosecutions must necessarily be kept confidential).

Matters relating to animal welfare are also subject to high levels of public interest and tend to attract commensurately high levels of media attention. One by-product of this public interest is exposure to close coverage and scrutiny, both in NSW and nationally, of the activities of RSPCA NSW by a media which is ready and able to hold the organisation publicly accountable.

Under its Constitution, RSPCA NSW is further accountable to:

- Its membership, which encompasses approximately 6,000 members and 26 branches (each of which has an executive committee); and
- Its Board of Directors, which is made up of a preponderance of non-executive members with wide experience.

As indicated above, complaints made to RSPCA NSW regarding the conduct of its Inspectorate must be reported annually to DPI in accordance with s 34B of the Act. In 2018/19, there were 14 complaints received. Following investigations by the Chief Inspector and Deputy Chief Inspector, none of the complaints was substantiated and the matters were closed. RSPCA NSW considers its reports to be a thorough and detailed disclosure of Inspectorate conduct to NSW Government, which provides the public with assurance that RSPCA NSW is accountable to government and the community. Given its number of interactions with the community (often, individuals being formally investigated or interviewed), the small number of complaints received do not provide a basis for concerns about RSPCA NSW overreach or the inappropriate exercise of its powers. There is no evidence that RSPCA NSW Inspectors, or staff for that matter, engage in conduct that is in any way unacceptable to the community.

⁴³ According to iSentia media reporting.

The Government Information (Public Access) Act 2009 (NSW)

- (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:
 - ... (v) exemption from the provisions of the *Government Information (Public Access) Act 2009*

The *Government Information (Public Access) Act 2009* (NSW) (GIPA) statutory regime was introduced in 2009, replacing the *Freedom of Information Act 1989* (NSW). RSPCA NSW is not exempt from the provisions of that legislation. In particular, RSPCA NSW considers that its Inspectors hold an office for “a public purpose by or under the provisions of a legislative instrument” and are thereby subject to GIPA. Accordingly, when RSPCA NSW receives GIPA requests (either directly, or via requests from DPI for the release of information concerning the functions of the RSPCA NSW Inspectorate), it responds in line with the requirements of GIPA. In 2018/19, for instance, RSPCA NSW responded to five GIPA applications.

The Administrative Decisions Review Act 1997 (NSW)

- (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:
 - ... (vi) exemption from administrative review under the *Administrative Decisions Review Act 1997*

RSPCA NSW is not “exempt” from administrative review pursuant to the *Administrative Decisions Review Act 1997* (NSW) (ADRA). Rather, the legislation that RSPCA NSW enforces is not included within the jurisdiction of the NSW Civil and Administrative Tribunal under ADRA. Accordingly, no decisions of any body authorised under the Act, including both NSW Police and RSPCA NSW, are subject to review under ADRA.

TERMS OF REFERENCE 1(E) – OTHER JURISDICTIONS

- (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

RSPCA NSW is unsure as to what “limitations and deficiencies” are referred to in this Term of Reference and, accordingly, has not sought to respond to it at this time.

The longstanding involvement of RSPCA NSW, as a charitable organisation, in the investigation and enforcement of animal cruelty laws is a tried and tested model, that has long been adopted internationally and in other Australian jurisdictions. The statutory powers granted to its Inspectors under the Act are broadly consistent with those granted to their counterparts in other states and territories in Australia. A recently prepared table summarising the various national approaches is reproduced at Annexure P.⁴⁴

TERMS OF REFERENCE 1(F) – ESTABLISHMENT OF A SPECIALIST UNIT

- (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

RSPCA NSW welcomes any action that would increase the resources available in NSW to prevent animal cruelty and promote animal welfare. It would be critically concerned, however, at any proposal that involved the elimination or lessening of its own ability to investigate and enforce animal cruelty laws in NSW.

NSW Police currently plays an important role in the investigation and enforcement of animal cruelty laws in the state, but to a very substantial extent do so in support of RSPCA NSW and with a heavy reliance on the expertise and resources of RSPCA NSW. In particular:

- RSPCA NSW has Memoranda of Understanding with NSW Police to ensure the effective and timely exchange of information, and to meet operational requirements across NSW in relation to the enforcement of the Act;
- By far the largest number of reports of animal cruelty or neglect in NSW are made to RSPCA NSW, thus relieving NSW Police of a considerable investigative burden. Last year, for instance, RSPCA NSW received and investigated 15,673 animal cruelty complaints.
- At both an organisational level and the level of individual officers, particularly in regional areas, NSW Police frequently utilises the specialist expertise and resources of RSPCA NSW, as well as its dedication to the task of preventing animal cruelty and promoting the welfare of animals in the State. Accordingly, NSW Police consults with RSPCA NSW and its Inspectorate on a near daily basis and refers animal cruelty complaints to RSPCA NSW. In 2019, for example, complaints were referred by NSW Police to RSPCA NSW on 211 occasions; and

44 Annexure P – Comparative enforcement of animal cruelty laws in Australia.

- NSW Police utilises the expertise of RSPCA NSW veterinarians and the capacity of RSPCA NSW shelter to care for animals seized either by NSW Police alone, or in joint operations between NSW Police and RSPCA NSW.

As outlined above, the involvement of RSPCA NSW, as a charitable organisation, in the investigation and enforcement of animal cruelty laws is a tried and tested model that has long been adopted in Australia and internationally.

There are a number of matters that should be noted.

First, the powers granted to RSPCA NSW and AWL under the Act are not exclusive. Officers of NSW Police can, and do, exercise those same powers.

Secondly, to the extent that there might be a concern that the power to both investigate and prosecute are vested in the one body, the model is not a “novelty”. It is commonplace. By way of example, NSW Police not only investigates criminal matters – NSW Police Prosecutors are responsible for prosecuting matters on behalf of NSW Police, as well other government agencies in Local Courts, Children’s Courts and the Coroner’s Court. Indeed, Police Prosecutors are responsible for prosecuting 95% of all criminal cases in New South Wales.⁴⁵ NSW Roads and Maritime Services (RMS) also prosecutes matters in the Local Court and the District Court in respect of licence appeals, heavy vehicles and camera-detected offences, and the prosecution service of RMS sits within its Compliance and Regulatory Services Division. The NSW Environment Protection Authority is not only responsible for issuing environment protection licences, but also investigates and prosecutes those who breach their licences or commit other environmental offences. There are many further examples of government bodies that exercise both investigate and prosecutorial functions. Some, such as the Environment Protection Authority, also regulate.

Thirdly, the model has considerable tangible benefits for the prevention of animal cruelty and advancement of animal welfare. Those benefits have already been addressed. Put simply, the model is unique in terms of its capacity to fulfil the objects of the Act and meet the legitimate expectations of the community in respect of the prevention of cruelty to animals and advancement of the welfare of the victims – the animals themselves.

This model currently benefits the community in numerous ways. RSPCA NSW is strongly concerned that many benefits would be lost if the model were changed in a way which denied or seriously restricted the continuing role of RSPCA NSW in the investigation and enforcement of animal cruelty laws. Those important benefits to the community include:

- The involvement in the investigation and enforcement of the animal cruelty laws of an existing, highly trained body of specialist and experienced Inspectors who are solely dedicated to that objective and free from competing priorities;

45 NSW Police, ‘Accelerated Prosecutors Recruitment Program’ (Web Page, no date) <https://www.police.nsw.gov.au/recruitment/the_career/accelerated_prosecutors_recruitment_program>.

- The ability of those RSPCA NSW Inspectors to operate as part of an integrated animal welfare organisation and to rely on the complementary resources of the organisation, which are similarly dedicated to animal welfare, including veterinary services, animal shelters, education and other support programs for animal owners in need, specialist transportation and other animal management equipment and resources;
- The capacity for those officers and their expertise to be deployed in the community, not just in relation to the investigation and enforcement of the animal cruelty laws, but in response to emergencies which threaten animal welfare, such as bushfire, drought and floods;
- Substantial cost efficiencies in the investigation and enforcement of the animal cruelty laws, arising from the fact that those officers and complementary resources are managed:
 - by a specialist organisation with long experience in operating to achieve maximum impact with limited resources; and
 - under the umbrella of a charity, which accordingly operates with an imperative of maximum efficiency dictated by its accountability to donors and charitable regulators (for example, the need to minimise overhead expenses and operate with high levels of transparency);
- Direct and substantial savings to the Government and the community by undertaking activities which would otherwise fall to government, with commensurate cost to the taxpayer;
- The promotion of community involvement in the enforcement of the animal cruelty laws through the financial and personal commitments of thousands of volunteers and supporters, engaged personally and emotionally in the cause of preventing animal cruelty and promoting animal welfare; and
- The willingness of professionals in the community to contribute their services to RSPCA NSW free of charge or at reduced rates. This includes, for instance, the assistance of barristers who appear for RSPCA NSW pro bono, and veterinary and other professionals who provide expert evidence for use in the prosecution of offences under the Act.

It would be a tragedy for the community and for animals in NSW if these extensive benefits were lost or diminished as a result of the elimination or diminution of RSPCA NSW's longstanding role in the enforcement of the animal cruelty laws. If the model is working, why change it?

The RSPCA NSW Inspectorate is an integral part of the organisation in every aspect and it plays a critical role in informing public perception about the rationale and role of RSPCA NSW in the State. Radical change to the role of RSPCA NSW in the enforcement of animal cruelty laws would potentially have extremely serious and unquantifiable impacts on its work and may even threaten its continued existence.

In the view of RSPCA NSW's senior management and its Board, any change which caused the demise of the Inspectorate would:

- Have a potentially devastating effect on the morale, culture and effectiveness of RSPCA NSW as an organisation; and

- Seriously undermine the continuing ability of the organisation to raise funds from the community to support the work not just of the Inspectorate, but of all branches of RSPCA NSW.

As an organisation with extensive experience, a team of specialised and practiced Inspectors and an integrated network of veterinary clinics, animal shelters and education and community outreach programs – all directed to the prevention of cruelty to animals, RSPCA NSW believes that it is ready, willing and able to effectively and efficiently investigate animal cruelty complaints and enforce animal cruelty laws in NSW, as it has for so many years.

TERMS OF REFERENCE 1(G) – OTHER RELATED MATTERS

(g) any other related matter.

Outcomes of the NSW Animal Welfare Action Plan and Animal Cruelty Sentencing Review

Between December 2017 and August 2019, RSPCA NSW provided detailed advice and assistance to DPI, NSW Department of Justice, NSW Police, and the Department of NSW Courts & Tribunals regarding criminal law, prosecutions, criminal procedure, sentencing, and appellate and contempt proceedings in relation to animal cruelty, as part of the DPI review of sentencing outcomes in the NSW Courts.

In May 2018, DPI released the NSW Animal Welfare Action Plan, which outlined policy and legislative review to be undertaken over the following three years. The review was designed specifically to ensure that “NSW has a robust animal welfare framework and the capacity and capability to effectively administer it.”⁴⁶ A discussion paper was then published which coincided with two online surveys in June 2018 regarding public sentiment in respect of animal cruelty sentencing, and planning for critical and emerging situations (including measures for relieving stock in distressed circumstances). RSPCA NSW contributed in detail to drafts of the discussion paper and the surveys and participated at all stages of government consideration. RSPCA NSW also promoted the reviews via its social media platforms with significant reach and uptake online.

⁴⁶ NSW DPI, ‘Animal Welfare Discussion Paper: Improving the current legislation – Penalties and Critical Situations’ (Discussion Paper, June 2018) <https://www.dpi.nsw.gov.au/__data/assets/pdf_file/0003/820173/discussion-paper-improving-the-current-legislation-penalties-and-critical-situations.pdf>.

The surveys received “an overwhelming response” – 2,152 members of the community completed the animal cruelty penalties survey and 480 completed the critical and emerging situations survey.⁴⁷

No substantive legislative amendments have yet been made to the maximum penalties for offences of animal cruelty since 1997. RSPCA NSW supports action by Parliament in that regard as a matter priority.

Amendments to the *Prevention of Cruelty to Animals Act 1979 (NSW)*

The Act is now over 40 years old and is, in the view of RSPCA NSW, DPI and many others, overdue for review and amendment.

RSPCA NSW has recently been consulted extensively in relation to planned amendments to the Act, scheduled by the Government to occur in the next two years. For instance, the CEO, General Counsel and Chief Inspector of RSPCA NSW have met with policy officers at DPI on at least three occasions since 12 August 2019. An RSPCA NSW working group consisting of the General Counsel, Legal Counsel, Chief Inspector, Deputy Chief Inspector, two inspectors and two registered veterinarians has been formed and has commenced working through the legislation to assist with providing detailed, empirically-driven perspectives for the re-consideration of this vitally important piece of legislation.

RSPCA NSW is committed to fully embracing the potential for legislative amendment in relation to animal cruelty laws in NSW. It has served the animals and people of NSW for 145 years, and RSPCA NSW looks forward to being at the forefront of regulatory change as it continues to perform the work of preventing animal cruelty and promoting animal welfare – the very reason for its existence.

47 NSW DPI, ‘Improving legislation – penalties and critical situations’ (Web Page, 2019) <<https://www.dpi.nsw.gov.au/animals-and-livestock/animal-welfare/improving/improving-the-current-legislation-penalties-and-critical-situations>>.