

**Submission
No 60**

INQUIRY INTO ANIMAL WELFARE POLICY IN NEW SOUTH WALES

Organisation: Master Dog Breeders and Associates

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Re The inquiry into animal welfare policy in New South Wales.

The Master Dog Breeders and Associates [MDBA] as a major stakeholder in the breeding of purebred dogs welcomes the opportunity to respond to the Animal Welfare Draft Bill 2022 [NSW].

The Master Dog Breeders and Associates has a membership base which consists of purebred dog breeders, and responsible pet owners in NSW. This membership base coupled with our other dog related activities, across the country, including an Approved Organisation in NSW and an Applicable Organisation in Victoria gives the MDBA an objective and broad perspective on the current situation in NSW and a strong understanding of how suggested changes would impact on the welfare of dogs and the community.

On the whole The MDBA supports this bill and believes that it has achieved the stated intent of creating a single modern act replacing the Prevention of Cruelty to Animals Act 1986, The Animal Research Act 1985, and Exhibited Animals Act 1986. It is of some concern however, that the regulations have not been included for comment as yet.

It would appear that whilst the stated scope of the reform did not include other animal related legislation E.g., Companion Animals Act 1998 that parts of this have been included even when they are not specifically or primarily related to Animal Welfare. There is also not enough third-party accountability, when dealing with dogs, for those charged with policing the Bill.

Stated Objects of Act

The primary objects of this Act are—

- (a) to promote the welfare of animals, and
- (b) to prevent cruelty to animals.

4 How objects are to be achieved [page 2]

- (a) iii - Requiring the listed information to be provided when dogs and cats are advertised for sale or to be given away does not prevent cruelty to animals. How does this strategy provide for the care and protection of animals? This strategy appears to be about the management of dogs and cats rather than the welfare or potential cruelty which should be [and currently is] under the scope of the Companion Animals Act. 1998.

153. Information required when dogs or cats are advertised for sale or for giving away

This appears to duplicate the requirements under the Companion Animals Act and is not related to welfare or prevention of cruelty to animals.

The problems the MDBA have documented during our research, discussions with our breeders and puppy buyers regarding this strategy under the Companion Animals Act are as follows:

Breeder Identification Number

Having EITHER a breeder identification number, rehoming agency number OR a microchip number is open to abuse by scammers , is not able to be adequately policed and is a complete failure.

1. When a pup is microchipped the information is not entered into the pet registry system immediately. Sometimes those implanting the microchips wait weeks before entering them and some councils may not have this information for months. Given that most puppies are advertised or sold either prior to microchipping or soon after microchipping, any expectation that this number is able to be verified by the NSW Pet Registry is impossible. Having a requirement/choice for a microchip number in an advertisement does not assure a puppy buyer that the advertisement is legitimate because the microchips have not been entered into the system at the time of advertising or sale. Additionally, scammers have already found numerous ways around those requirements.
2. In our experience, we have found, that sometimes the person who sells the pup is often not the person who has the pup microchipped in their name, and sometimes, because the system is so onerous, when a breeder has a new litter they may just change the relevant dates in the advertisement and use the same microchip number that was in the original advertisement. Advertisements placed can still be visible and active months or years after the litter is sold. This has already been shown to be impossible to police.
3. Currently, there is no requirement for a person requesting a microchip to be inserted into a puppy or a dog to prove their identity. They can use any name or any address and because of this there is no transparency about who are breeding dogs in the state. Pups are chipped in the name of the person who takes the puppy to the vet on the day they are implanted – this could be a breeder’s cleaner or assistant or as we see on an increasing level, in NSW and in other states, it could be a scammer using an unrelated breeder’s name. The Pet Registry Identification number needs to be provided as a mandatory requirement and inserted into the forms used to register the microchip.
4. The laws surrounding implantation and recording details must be policed, this includes microchip implanters and veterinarians. We are aware of some veterinarians and licensed microchip implanters actively encouraging their clients to microchip puppies into the new owner’s name rather than the breeder’s. Not only is this against the law, but it creates all manner of problems for the puppy buyers. Sometimes the implanters wait weeks or months to submit the required information into the system and the puppy buyer never receives a change of owner form, because the pup is registered in their name, the breeder cannot answer any questions or make enquiries as the dogs are not registered to them, so it becomes a huge job to try to fill in the gaps and get answers, to be able track what is happening or register their dog with local council.
5. The use of any identification numbers in advertising MUST be policed as without this, legitimate breeders have their identities stolen and unsuspecting puppy buyers think they are dealing with legitimate breeders. The MDBA receives between 30 and 50 calls and emails per DAY asking for validation of our members via advertisements and of these 34% are scams. Being able to check the number via the Pet Registry website simply provides validation to the puppy buyer of the number being active which is easily lifted and used by anyone from any advertisement. The MDBA has had numerous discussions with state and Federal police regarding this problem.
6. The current system is managed inadequately and has created many more problems than it has solved. It lends validation to scammers and periodically ruins legitimate breeder’s reputations. Additionally, if a puppy buyer has been scammed it is not possible for them to access the seller/scammer’s information so they can take them to court or hold them accountable, if they could prove the person, they dealt with was actually the person who is entitled to use the number. It enables homegrown Australian and international scammers to sell puppies that do not exist for tens of thousands of dollars.

Additionally, it is difficult to understand why this identification requirement is an Animal Welfare Issue rather than a management issue under the Companion Animal Act. Given this identification

requirement is not adequately policed under the Companion Animal Act we are at a loss as to how adding it to the Animal Welfare Act will encourage better policing. Whilst it's an EITHER a microchip number OR breeder identification number that must be included in an advertisement; whilst the pet registry website is completely inadequate to do the job it was intended to do; whilst current laws are not ACTIVELY and AGGRESIVELY enforced; this law is doomed to fail and is nothing more than a scoff law.

Why would the DPI want to replicate this part of the Companion Animal Act when this part of that Act under that legislation is currently such an abysmal failure at its intended purpose?

14 What is appropriate for minimum care requirements [page 7]

In deciding what is appropriate for the purposes of a minimum care requirement for an animal, the matters to be taken into account include—

- (a) the animal's species,

The MDBA believes that due to vast variability in type and management requirements of dog and cat breeds and farm animals e.g., a Dorper sheep requires less minimum care than a Merino; a British Bulldog requires far greater minimum care than a kelpie; a Persian cat to that of a hairless cat etc

We recommend that this should be amended to say

- (a) the animal's species and breed

Division 3 Prohibited and restricted procedures Page 9

- (e) surgical artificial insemination on a dog

This procedure is one which only a vet is able to provide. The MDBA or any individual dog breeder is not qualified to say whether this procedure is cruel, and, in our opinion, a decision made to provide such a service should be between a vet and their client after taking all things into consideration.

47 Secretary approval of prescribed premises. Page 21

Definition - prescribed premises means premises that are—

- (a) used, or proposed to be used, for the purpose of conducting a licensed activity, and
- (b) prescribed by the regulations for the purposes of this section

By including this in the Cruelty to Animals Act it will cause confusion both within the layers of government and for the general public. Again, this is covered by other legislation and if included will be over regulation. It is more about management rather than welfare and should be left to Zoning and Local laws. It does not fit the stated objects of this Bill.

Before anyone in this state can erect any premises, convert any existing premises, alter, or enlarge any premises or even have more than a prescribed number of dogs or breed a dog, they are bound by zoning, environmental and local laws. Right now, even without the introduction of a licensing system, before a person can breed a dog on their premise they must apply for change of usage and development application approvals that dictate the maximum number of dogs that can be kept on that property. Any breeding facilities must comply with the Code of Practice for Breeding Dogs. Councils are ensuring development applications are compliant with this code and RSPCA and AWL know where dogs are being bred and dog breeders are visited regularly by those agencies. People who breed dogs have already gained local council approval for the breeding of dogs on their premise, they have received development approval for any buildings used for the breeding of dogs and those building must meet the current Code of Practice for breeding dogs. So, our question is why do they need to apply for approvals from the Secretary? This is again over-regulation, which only those already compliant will participate in and we do not understand what will be achieved by this. This will not help locate or bring those to justice who operate outside of the law. It also

creates other potential problems e.g. Is it the person or the property being assessed for approvals and people needing to work with three different departments and under at least three pieces of legislation just to breed a dog.

Third Party Accountability and Transparency for Those Charged with policing Animal Cruelty laws.

Of major concern to the MDBA is that there is not enough within this bill to ensure third party accountability or transparency of those charged with policing these laws.

This bill assumes the agencies and officers policing these laws and associated regulations and codes will not ever, or at least rarely ever, make a mistake, and if they do, the error will be caught as part of the judicial/court process, which can take years and lots of money and stress, to resolve.

There must be a process for any person to challenge the procedural process before a court date especially when we are talking about a living being, that a person has an emotional bond with. When a dog is taken from an owner's premises there must be an allowance for that person to get a second unbiased professional opinion prior to the finality of euthanasia or surgery without requiring a court order.

This bill leaves those being accused of breaching the legislation or the code, having no right to get a second opinion and resolve any procedural mistakes prior to a court hearing. There is no adequate protection or right to natural justice if the authorised officer is overzealous, has a personal agenda or is simply making an honest error in judgement. If they are doing everything correctly it still leaves them open to accusations of corruption and bias which could be avoided.

The Charitable Organisations attending vet's decisions, regarding the treatment of dogs, can be made without regard to any prior consultations the dog's owner has had with their attending vet; the history of tests or treating vet management plans. Whilst we understand that a second opinion is not practical or expedient to relieve an animal which is suffering, there are many instances which we have been made aware of regarding situations that bring the policy of not allowing a second opinion or owner input into treatment options, without a court order, into question.

As a society, we ask those who own dogs to love them and treat them as part of the family and take responsibility for them, but then we can take that family member away from them, and remove their rights, BEFORE THEY ARE FOUND GUILTY OF ANY CHARGE. They have no say in the health decisions made about their dog and are denied the right to an independent second opinion. On a regular basis there are dog owners who report they are told they must either surrender their animals or be charged under this legislation and whilst waiting to find out if a court finds them guilty or not, they pay huge costs including daily boarding fees and the costs associated with defending themselves. Most simply give in and surrender their animals rather than defend themselves in a climate that judges dog owners, especially those who breed dogs, as guilty without due process. If they do surrender their dogs rather than go through the judicial process and they are guilty of mistreating their dogs, then this system allows them to surrender that dog and they can go out the next day and buy another. How is this in the best interests of dogs?

Recommendations.

1. **Canine Welfare Panels should be introduced.** Whilst we understand that there are some considerations associated with stock animals which do not apply in the companion animals' context, many do. The comments included in the NSW Animal Welfare Reform Consultation Outcomes paper uses the fact "that numbers of stock animals are usually much larger and not able to be cared for in a shelter situation" as a reason as to why a welfare panel is not needed for dogs. However, if it is determined a dog owner should lose their dogs, the same type of considerations, if not more, as other animals must be applied for the best welfare outcomes for dogs. Just because less numbers means the dogs can go to a shelter etc it is not necessarily what is best for the dogs. As stated in this Consultation paper "The Stock Welfare Panel process is often times set up to work with producers to improve welfare

situations that have developed due to changing climatic conditions. For example, where drought conditions have reduced the ability of a person to meet the welfare needs of animals". Dog breeders have the same climatic conditions to deal with as producers. They experience floods and bushfires and dealing with such conditions on a case-by-case basis, taking all variables into account, including reasons as to why the situation developed or needs to be managed into the future is most definitely evidence that a Canine Welfare Panel process must be included where required for dog owners.

2. **The right to an independent second opinion.** The right to an independent second opinion when requested, and a right to be informed of, or involved in treatment decisions with their animals, FOR THOSE NOT YET FOUND GUILTY OF ANY OFFENCE, without a court order, must be written into this Bill to ensure policies of Charitable Organisations cannot deny an owner of their property rights and natural justice when decisions are being made that may lead to destruction of animals, surgery, or potential charges to be laid. Once the dog is euthanised and the body cremated there is no evidence and therefore no ability for the owner to feel they can defend themselves, in or out of the court system.
3. **Information required when dogs or cats are advertised for sale or for giving away.** The requirement to provide a microchip number OR a breeder number when advertising or giving away a cat or a dog must be removed. This is a system doomed to failure, it does not match the primary objects of the Act and it is an area best managed by the Companion Animals Act.
4. **Secretary approval of prescribed premises.** The requirement to have the Secretary approve a prescribed premises must be removed. These are currently controlled by Zoning and Environmental laws, local council laws and various mandatory codes of practice. They are related to management and not welfare.

The Master Dog Breeders and Associates remains committed to Canine Welfare and want our members to be able to have a single point of reference to understand what is expected of them.

We look forward to being able to work with the NSW Department of Primary Industries with Draft Regulations and anything related to Canine Affairs when required.

If you require any additional information or if we can be of any assistance, please don't hesitate to contact us

Julie Nelson

Managing Director

Master Dog Breeders and Associates