

**Submission
No 71**

INQUIRY INTO ANIMAL WELFARE POLICY IN NEW SOUTH WALES

Organisation: Youth for Conservation

Date Received: 27 February 2022



Youth for Conservation Submission to the Standing Committee
on State Development's Inquiry into the Animal Welfare Bill
2022.

27/02/2022

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Standing Committee on State Development

New South Wales Legislative Council
Parliament of New South Wales
6 Macquarie Street
Sydney NSW 2000

Re: Standing Committee on State Development's Inquiry into the Animal Welfare Bill 2022 (NSW)

Thank you for the opportunity to contribute to the inquiry into policy reforms put forward in the proposed Animal Welfare Bill 2022 (NSW). Y4C is supportive of policy which enhances animal welfare and ensures acts of cruelty are prevented, particularly in circumstances where animals can be exhibited or used in testing. With that in mind, Y4C implores the Standing Committee to consider the issues with drafting raised in this submission. These issues primarily relate to the departure of the Bill from key provisions in the three statutes it proposes to repeal:

- The *Prevention of Cruelty to Animals Act 1979* (NSW);
- The *Animal Research Act 1985* (NSW); and
- The *Exhibited Animals Protection Act 1986* (NSW).

Key Concepts

Meaning of "animal"

Y4C supports the implementation of a definition of "animal" under the Bill that does not exclude invertebrate organisms. Whilst the evidence is still unclear as to whether invertebrate animals feel pain in the same manner as vertebrates, it appears that they are able to. For example, oysters have been observed as feeling pain through the process of nociception.

"Act of cruelty"

The criteria for an "act of cruelty" should also be amended to provide clarity. Specifically, clarity should be provided as to what constitutes unreasonableness or unnecessary. The criteria should be centred on a proportionality analysis, looking at whether the act was legitimate in its object and means. This style of analysis enjoys legal acceptance.

Furthermore, whilst Y4C recognises the necessity of the fishing exception contained in cl 7(3), it should be drafted in narrower terms. Specifically, the exception should be qualified by requiring that the acts involved were necessary and reasonable.

Minimum Care Requirements

Y4C welcomes the provisions which stipulate the minimum care requirements as they are easily understood and pragmatically drafted. That being said, the following amendments are recommended.

Appropriate food

Clause 15 should be amended to require that appropriate food be given in sufficient quantity and quality to allow for the animal's normal growth or maintenance of body weight. This reflects the requirements in place in the state of Oregon, and can prevent animals suffering harm that is technically possible under the current provisions.

Appropriate drink

In the same vein, Y4C suggests adopting the Oregon model for cl 16. Specifically, the clause should be drafted to clarify that animals having access to ice, snow or naturally occurring bodies of water will not satisfy the minimum care requirements. Like with the above recommendation, this ensures that the water given to animals is of an appropriate quality.

Appropriate shelter

Clause 17 should be amended to include the exceptions present in the aforementioned Oregon law. This would ensure that the requirement is not satisfied where the provided shelter is:

- crawl spaces under buildings or parts of buildings (e.g. steps);
- the space under a vehicle;
- shelters made from materials easily degraded by the elements (e.g. cardboard);
- animal crates or other enclosures meant for temporary housing;
- shelters with wire or chain link floors (unless the animal is a bird); and
- shelters surrounded by materials, such as waste, that could adversely affect an animal's health.

Appropriate exercise

Y4C is aware of the need to ensure the agricultural industry is not unnecessarily burdened by animal welfare law. That being said, cl 18 should be expanded to offer the same requirements to stock animals to curb harmful farming practices. At a minimum, the practices of confining chickens to battery cages and sows to stalls should be expressly prohibited. This approach is currently in place in the ACT.

Prohibited practices

Clause 22 should be amended to include the aforementioned practices of confining chickens to battery cages and sows to stalls. Additionally, Y4C supports the inclusion of debeaking birds and dehorning cattle. These practices have been shown to cause tremendous physical harm to animals, and often permanent damage.

Offences Relating to Animal Cruelty

Injuries to animals struck by vehicle

Y4C welcomes the imposition of a positive duty upon individuals who injure an animal with their vehicle. However, the exception relating to birds should be removed. There is no reason for the currently drafted exception, and would lead to native birds such as emus and brush turkeys not being protected.

Poisoning a domestic animal

The current drafting of cl 30(3) could, in theory, allow for animals to suffer detrimental health outcomes from consuming food that is toxic to them. Y4C believes the provision should be amended to include feeding animals food which is incompatible with their anatomy to ensure such situations can be considered offences under the new laws.

Transportation of dogs

The provisions affording protection to dogs by prohibiting their being left in vehicles during hot weather are a welcome addition to Australian animal law. That being said, evidence shows that in temperatures significantly less than 28°C a car can become exceedingly hot and cause health issues such as heat stroke. Y4C suggests reducing the threshold to at least 21°C, this being the position in other jurisdictions, such as Germany.

Y4C believes that the provisions relating to the transportation of dogs should be open to any 'animal' as defined by the Bill. This reflects the fact that domestic animals are transported regularly, and pets other than dogs should be protected by these provisions. This also will offer protection to non-domestic animals which is necessary.

Stock Welfare Panels

"Distress"

The concept of distress in cl 50 should include states of illness. There is no reason apparent from the text of the Bill as to why this should not be included, and it would assist the panels in ensuring stock animals are not mistreated or kept in hazardous conditions.

Official warnings

The official warning regime offered by the Bill is necessary to ensure compliance. That being said, Y4C believes some guidance should be offered regarding the length of time in compliance periods. Expressly stating that such periods must be "reasonable" should ensure that animal welfare is appropriately balanced against necessary regulatory discretion.

Enforcement and Compliance

Approved charitable organisations

It is sensible to leave the majority of the procedures associated with approving charitable organisations to a regulatory scheme. However, it is Y4C's view that cl 101 be amended to include some clear criteria which the Minister must consider prior to approving a charitable organisation under the new laws.

Conclusion

Y4C is grateful to see the NSW government addressing the issues pertaining to the rights of animals. However, the issues raised in this submission should also be considered to ensure that the Bill is able to provide sufficient protection to animal welfare in this state. If these issues are addressed, NSW is positioned to become the leader in the protection and advancement of animal welfare in Australia.