

**Submission
No 85**

INQUIRY INTO ANIMAL WELFARE POLICY IN NEW SOUTH WALES

Organisation: K9 Pro - The K9 Professionals

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27th February 2022

NSW Animal Welfare Reform – Public consultation draft NSW Animal Welfare Bill 2022 (22nd December 2021)

I would like to thank you for the opportunity to give feedback about the draft NSW Animal Welfare Bill 2022.¹

I am the founder, owner and Head Trainer of K9 Pro-The K9 Professionals (a leading canine behaviour consultation business). I am a Nationally Accredited Dog Trainer, Behaviourist, Nationally Accredited Law Enforcement Dog Trainer and an ANKC Registered Breeder. I have been working, training and breeding dogs for most of my life. I have been a keynote speaker in over 100 Dog Training and Behaviour workshops and seminars being held in various states of Australia, New Zealand & Thailand.

I design and run numerous dog training workshops for Australian Quarantine Inspection Service (AQIS), Customs and other Government Departments. I lecture Animal Quarantine Staff on Safe Handling Practices for Dangerous and Aggressive dogs. I have provided temperament assessment reports for Government, Council, Business and private matters.

Promoting animal welfare and preventing cruelty is an extremely important function of Government, but it must be clearly thought out and actually do as it is intended to do, reduce eliminate cruelty and improve or maintain welfare.

I note there is an exemption in the handling of Police Dogs and Correctional Services Dogs; the Act does not apply to these groups (see below).

Division 2 Application of Act 5 Act to bind Crown

(2) However, this Act does not apply to—

- (a) the use and handling of police dogs or police horses by police officers **in the course of the officers' duties**, or (b) the use of dogs by correctional officers to assist in maintaining the good order and security of correctional centres and correctional complexes under the Crimes (Administration of Sentences) Act 1999, section 78.

I also note that the definition of animal fighting has been changed to include the word human (see below).

Division 2 Animal fighting and live baiting

31 Definitions In this Division— animal fight means an event at which an animal is caused, encouraged or incited to fight another animal **or a human**

32 Prohibition on animal fighting

(1) A person must not—

- (a) cause, encourage or incite an animal fight, or (b) train or otherwise prepare an animal for an animal fight, or (c) possess or sell an animal for fighting another animal or a human, or (d) manufacture, possess, transport or use an animal fighting implement for the purpose of causing or training animals to fight, or (e) organise, advertise or otherwise

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prepare for, or admit a person to, an animal fight, or (f) be present at an animal fight or preparations for an animal fight. (g) allow premises owned or occupied by the person to be used for an animal fight. Maximum penalty—category 1 penalty.

- (2) Subsection (1) does not apply to— (a) conducting a rodeo in accordance with a standard prescribed by the regulations for this section or a person who does all that the person could reasonably be expected to do to conduct the rodeo in a way that complies with the standard, or (b) mustering stock, working stock in yards or another routine animal husbandry activity, or (c) conducting sheep dog trials.
- (3) (3) To avoid doubt, neither of the following is an act of cruelty— (a) conducting a rodeo in accordance with subsection (2)(a), (b) participating in a rodeo conducted in accordance with subsection (2)(a).

I am an Accredited Law Enforcement Dog Trainer and have provided education, training and demonstrations to Police, Military, Correctional Services and Defence Force Personnel and dogs. I am also an experienced selection tester for Working dogs and an experienced decoy for training of working canines in both the law enforcement and correctional services sector including the Body Bite suit and Civil Agitation training.

It is unclear in the draft Bill whether the service provision and/or contracting I provide as a dog trainer for these Government sectors is considered as an activity falling within “a police officers’ or correctional officers’ course of duty” and therefore is exempt from the Act. The problem is that parts of this draft Bill, as they currently are written, may limit the services I can provide.

Another issue that must be realised is that Police and Correctional services dogs are of an essentially identical genetic and physical material as many dogs that are owned by normal civilians (non-police/correctional officers), as pets. I agree that certain dogs such as these, will benefit and be safer, by having the ability to communicate and provide consequence to dogs displaying dangerous / reckless behaviours.

Why has the Bill been designed to limit or remove these benefits from dog trainers, dog behaviourists and pet owners, leaving behaviour of the dogs, which are essentially identical to those used by police and correctional officers, without consequences and therefore control?

This leads onto the next point of significant concern in the draft Bill, which relates to prohibitions of items (see below).

Division 6 Offences involving prohibited items

40 Prohibition on prohibited items

(1) A person must not possess, use, sell, lease or give away—

(c) another item that— (i) causes, or may cause, unreasonable or unnecessary harm to animals, and (ii) is prescribed by the regulations for the purposes of this paragraph.

(3) The regulations made under subsection (1)(b) or (c) may prescribe circumstances in which a person is not prevented from possessing, using, selling, leasing or giving away an item referred to in the paragraph.

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I acknowledge and wholly agree with the goal of the Draft Animal Welfare Bill 2022 which is “to streamline and strengthen animal welfare laws, to make them easier to understand and follow.”²

I have noted that “the prohibited and restricted items offence [now] has two elements. First, it combines the current provisions under the Prevention of Cruelty to Animals Act 1979 (POCTAA) that prohibit or restrict the use of certain electrical devices and traps. **Second, it provides a mechanism to prohibit or restrict other items that pose an unacceptable risk to animal welfare.**”³

We have also been notified that “including the list of prohibited and restricted items in the Regulation ensures that the list can be updated more readily, **should new items become known or developed that pose an unacceptable welfare risk.**”³

The *processes* regarding the decision making related to eligibility of items that fall into this category is still not at all clear in the draft Bill. We have been assured that “specific details of what items are included as prohibited or restricted (and how they are restricted) will be subject to consultation when the draft Regulations are developed and published.”³

It is still not clear from the draft Bill for example, who will decide and based on what evidence that a particular item be prohibited and under what circumstances? I am not seeking information about specific details, but the Bill must disclose the process of how this will be carried out, and the powers of the Minister and his Advisory Committee in the decision-making process.

Currently, I am aware that a Committee (the Animal Welfare Advisory Committee or AWAC) has already been appointed by the Minister and is included in the draft Bill. The panel comprises ONLY of veterinarians who are academics. The expertise of the members in this Committee relates to veterinary matters only (more specifically, diagnosing and treating medical conditions in animals with use of medications). Firstly, it is highly concerning that the Australian Veterinary Association (AVA) recently (05/11/2021) updated their policy regarding the use of punishment and negative reinforcement in dog training to such that “punishment and negative reinforcement should not be used in attempts to change the behaviour of dogs” and that “training of dogs is best achieved through positive reinforcement.”³ These kinds of policies are not constructed on a scientifically valid argument as the learning quadrants were never designed by nature to be used in isolation e.g. one cannot use positive reinforcement without creating negative punishment and therefore also negative reinforcement. The position statements set a dangerous predicament as most common causes for unwanted behaviour issues presented to professional dog trainers occur through inappropriate use and application of positive reinforcement/negative punishment quadrants. With such a gross misunderstanding of how dog psychology works in the real world, and the lack of Committee members with significant experience in how restriction of training items may impact behavioural modification / rehabilitation / training of most dogs outside the narrow scope of their specific field of research, the Committee is simply not fit to give advice regarding these matters. I note that in 2020, “AWAC was reformed as an independent scientific committee to provide technical advice to the Minister and that AWAC may form Stakeholder Reference Groups to seek specialised advice on particular matters – including from industry stakeholders.”⁵ It is **absolutely necessary** that the Minister appoint new Committee members and/or form Stakeholder Reference Groups to broaden the expertise and provide a fair representation of professional viewpoints prior to drafting ANY specific Regulations with potentially far-reaching impacts for pet owners and dog trainers. Being an academic expert at conducting literature reviews and publishing studies in low impact factor journals about canine behaviour related to training tools or quadrants of learning is not relevant to how dogs are successfully trained and rehabilitated, and the understanding of the ethical implications of this to animal (and human) welfare in the real world. Industry experts such as professional dog trainers MUST be consulted first during the drafting phase of Regulations designed to restrict the use of lifesaving, welfare-enabling behavioural modification tools/items, no matter what the “scientific” literature states.

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With respect to licensing schemes, we were also assured that “... additional detail on these licensing schemes and their associated committees (the Animal Research Review Panel and Exhibited Animals Advisory Committee, respectively) [was] to be included in the Regulation.”³. It is still not clear whether any of the new or currently prohibited items including but not limited to electrical devices will be licensed, and how will the licensing be carried out? Will AWAC also guide the decision making about use of prohibited items or will the Government designate this task to another Committee/Reference Group?

The accessibility to use life-saving behavioural modification tools/items as a part of a behavioural modification program must not be impacted, as a result of red tape introduced by new licensing schemes where the primary purpose of the item used is to improve the welfare of the dog.

I hope that the Act be made much more transparent, clearer and that any specific provisions especially relating to potential prohibitions of new items will be developed in consultation with key stakeholder groups such as professional dog trainers and the community many of whom have sought the help of a professional trainer for behavioural modification of their canine. We do hope that the Government keeps its word in that “AWAC is only one means of obtaining advice and stakeholder views – the NSW Government is committed to broad consultation on animal welfare matters and will continue to engage with all stakeholders”³. and ask that professional dog trainers, such as myself, be consulted especially in relation to the points listed above.

I am the president of the Professional Dog Trainers of Australia organization and we represent Professional Dog Trainers from all specialties from Pet dog training to Law Enforcement to Hunters.

As a group, our committee would like to be recognized as stakeholders.

I would be extremely happy to provide specialised advice and welcome further consultation with regard to the Act and during drafting of specific Regulations.

Kind regards,

Steve Courtney

1. https://www.dpi.nsw.gov.au/_data/assets/pdf_file/0003/1381791/b2021-081-d09.pdf
2. https://www.dpi.nsw.gov.au/_data/assets/pdf_file/0004/1381792/FAQs-Draft-Animal-Welfare-Bill-2022.pdf
3. https://www.dpi.nsw.gov.au/_data/assets/pdf_file/0006/1381812/NSW-Animal-Welfare-Reform-Consultation-Outcomes.pdf
4. <https://www.ava.com.au/policy-advocacy/policies/companion-animals-dog-behaviour/the-use-of-punishment-and-negative-reinforcement-in-dog-training/>
5. <https://www.dpi.nsw.gov.au/animals-and-livestock/animal-welfare/councils-and-committees/awac>

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