

**Submission
No 90**

INQUIRY INTO ANIMAL WELFARE POLICY IN NEW SOUTH WALES

Organisation: NSW Greyhound Breeders, Owners and Trainers Association

Date Received: 28 February 2022



ANIMAL WELFARE BILL SUBMISSION

February 2022

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**Submission to the
Draft Animal Welfare Bill 2022**

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INTRODUCTION

This submission provides feedback to the NSW Government on the proposed draft Animal Welfare Bill 2022.

About the NSW GBOTA

The NSW Greyhound Breeders, Owners and Trainers (NSW GBOTA) is a member organisation that provides services to its membership relating to participation in the greyhound racing industry. These services include provision of commercial racing operations and advocacy in the interests of its membership.

NSW GBOTA is governed by a Board of Directors and professional management based at Wentworth Park, Glebe. Further information is available at the NSW GBOTA website: <http://www.gbota.com.au/>

NSW GBOTA operates greyhound race meetings throughout NSW, including at the State's premier greyhound track Wentworth Park, the sole metropolitan venue in NSW. TAB operations include Bulli, Bathurst, Gosford, Lismore, Maitland, Gunnedah and Temora. Appin Way is also utilised as a training facility.

NSW GBOTA also operates a network of branches throughout NSW (24 in total) which provide greyhound racing participants with the opportunity to meet on a monthly basis and progress issues of significance to the industry and discuss their ongoing participation.

Contact

The Association is appreciative of the opportunity to put forward a submission to this important matter on behalf of our members and industry participants. Should you wish to discuss our submission further, please contact Kristy Harper



DISCUSSION

The NSW Greyhound Breeders, Owners and Trainers Association (NSW GBOTA) is strongly committed to ensuring high welfare standards for greyhounds from birth, through their rearing and education period, racing careers and very importantly, for their post racing careers as pets.

The NSW GBOTA works closely with the industry regulator, the Greyhound Welfare and Integrity Commission (GWIC), and the industry commercial body, Greyhound Racing NSW (GRNSW) to consult on welfare issues and concerns and implement and promote very high standards of care for our greyhounds.

The New South Wales greyhound racing industry has worked hard over the past four years to make significant progress in advancing the welfare of greyhounds, improving track safety standards, and has implementing strong governance, regulation, and compliance within the industry.

Is this better regulation?

Consultation

The Association is disappointed in aspects of the consultation to date, that the new draft Bill contains proposals that were not included in the initial round of consultation, such as making surgical artificial insemination prohibited.

As outlined in our previous submission in September 2021, the Association supported the intent of the legislation, however raised concerns regarding the possibility of the introduction of a broad range of changes to, or the introduction of animal welfare protections that have not been properly consulted on with key stakeholders, without scientific research and evidence to support change.

The Association is disappointed to find that this occurred with several items, but in particular with the introduction of prohibition of surgical artificial insemination, included in the Bill without robust consultation, or scientific evidence on the positive welfare benefits of the prohibition. The proposal impacts significantly on entire dog breeding industries. Whilst this has now been addressed by the Agricultural Minister Mr Dugald Saunders, the Association conveys its disappoint that this has occurred.

A full and robust consultation process can only be achieved if all the information is provided to those that are being consulted, and key stakeholders. Additionally, any and all animal welfare protections should be backed by solid scientific research which provides evidence that the legislation is necessary for the protection of the animal and has a positive welfare benefit.

Broad, Vague and Confusing

The Association is strongly concerned with the broadness and vagueness of many of the proposed definitions, in particular harm and cruelty, which increases the risk of subjective interpretation, which could have extremely negative ramifications for our industry, and many other animal industries.

The Association is not convinced that the draft Bill is consistent with the NSW Government's own Better Regulation principles. In particular, the objectives are not clear, concise and specific, rather there has been the introduction of broad concepts which pose the risk of subjective interpretation, increasing the risk of complexity in application, and significant impact on many canine-based industries which has not been adequately considered.

Importantly, there is no regulations for the prescribed standards included in this draft Bill, rather these are proposed to be developed by policy makers following the consent to the Bill. The concerns the Association has already raised regarding the lack of consultation in the initial development phase are very much heightened by this proposal.

Duplication of Regulation

Duplication of regulation is not consistent with the NSW Government's own principles of Better Regulation. The proposed draft Animal Welfare Bill duplicates much of the regulation that already exists in the NSW Greyhound Racing industry, by way of the *NSW Greyhound Racing Act 2017*, *Greyhound Racing Regulation 2019*, Greyhound Racing Rules, and Greyhound Welfare and Integrity Commission's' industry policies and procedures, with a robust and strong penalty framework.

In many cases where that duplication exists, the NSW Greyhound Racing industry provides for much higher standards than those proposed in the draft Bill. There is no need to further replicate this regulation within the draft Bill for the Greyhound Racing industry, therefore the Association believes that the industry should be exempt from many of the rules contained within the legislation.

Greyhound Welfare Code of Practice

The Association reinforces that the NSW Greyhound Racing industry has already developed the NSW Greyhound Welfare Code of Practice, regulated by the Greyhound Welfare and Integrity Commission, which sets **very high standards** for the keeping, treatment, handling and care of greyhounds. It includes detailed standards regarding the facilities, equipment and conditions at the premises where greyhounds are kept, trained and raced. Importantly the Code of Practice is applicable to all greyhounds in a racing participant's care, including retired greyhounds who continue to live with participants as pets.

When the new Code was launched in June 2020, the Minister for Better Regulation and Innovation, The Hon. Kevin Anderson MP, said of the code:

"As a result of the code, NSW will now be leading Australia, if not the world, in providing standards for the protection of greyhounds that reflect public expectations.

These include the largest spatial requirements for greyhound housing in the nation. In addition to setting out high standards for socialisation, exercise and enrichment, it is also the first code to contain standards that apply to retired greyhounds who remain in the care of industry participants."



PART / CLAUSE	NSW GBOTA COMMENTARY
PART 1: INTRODUCTION	
<p>4. How objects are to be achieved:</p> <p>(a)(i) establishing a baseline of acceptable conduct, by persons who are responsible for animals, to ensure animals are provided with an acceptable standard of care (minimum care requirements)</p> <p>(a) (ii) developing standards for the care of animals and certain actions or activities involving animals and establishing a mechanism to give effect to the standards</p>	<p>The Association is concerned that this draft Bill does not include draft regulations, and that these will be developed after the introduction of the Bill, without further consultation with key stakeholders. It is challenging to understand the application of the enforceable standards without the regulations that support them.</p> <p>The NSW Greyhound Racing industry, under the <i>Greyhound Racing Act 2017</i> has already developed and established its own minimum care requirements and enforceable positive minimum standards.</p> <p>The Greyhound Welfare Code of Practice was introduced in June 2020 and sets very high standards for the keeping, treatment, handling, and care of greyhounds. The Code includes detailed standards regarding the facilities, equipment, and conditions at the premises where greyhounds are kept, trained and raced. Importantly, the Code of Practice is applicable to all greyhounds in a racing participants care, including retired greyhounds who continue to live with participants as pets.</p> <p>The Association would assert that many of these standards are well above and beyond the minimum requirements within the proposed draft animal welfare Bill, and that the industry is well focused on leading the world in positive welfare standards for greyhounds.</p> <p>There is no need to further replicate this regulation within the greyhound racing industry.</p>
PART 2: INTERPRETATION	
<p>An <i>act of cruelty</i> is an act or omission that results in an animal being -</p> <p>7.1.a – unreasonably or unnecessarily harmed</p> <p>7.1.b – unreasonably or unnecessarily killed</p> <p>7.1.d – overloaded, overworked, overridden or overused</p>	<p>The Association is concerned regarding the changes to the definition of cruelty and harm. The Association is particularly concerned with the meaning of harm:</p> <ul style="list-style-type: none"> (a) distress (b) pain (c) physical suffering (d) psychological suffering. <p>The proposed definitions are far too broad, and open to the risk of subjective interpretation, which has the potential for</p>

<p>7.2.e Another act prescribed by the regulations as an act of cruelty</p> <p>Aggravated Cruelty</p> <p>8.a the death, deformity or serious disablement of the animal</p> <p>11 – Meaning of harm – changes</p>	<p>serious ramifications on our industry, and other dog breeding, and working dog industries. Positive animal welfare legislation should ensure that it is scientific, and evidence based, and able to be adequately enforced.</p> <p>Again, without draft regulations available to provide context to these definitions, it is extremely difficult to understand the full impact of the proposed definitions and their implications for ours, and other canine based industries.</p> <p>Having an extremely wide definition of harm, which is not evidence or scientifically based, and is open to variable interpretation has serious ramifications for all industries that have a commercial element to their relationship with animals. The subjective nature of the proposed definitions poses a risk of irregularity of interpretation which is not consistent with the objects of the legislation itself.</p> <p>The Association strongly feels that the definition of cruelty as outlined in the <i>Prevention of Cruelty to Animals Act</i> is adequate and no further amendments to this definition were necessary.</p> <p>The Association objects strongly to this Bill in its current form, with these definitions being brought to parliament.</p>
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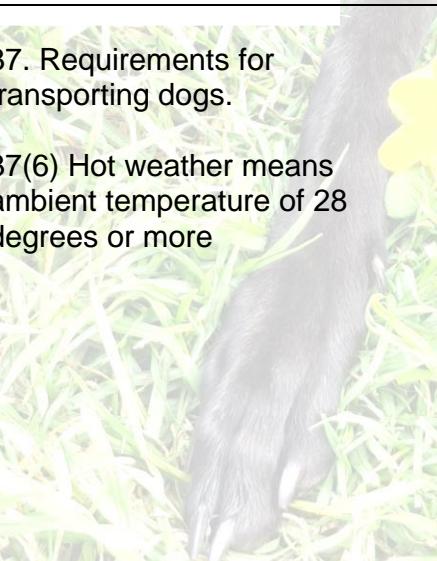
PART 3: REQUIREMENTS FOR CARE OF ANIMALS

<p>Division 2 Standards</p> <p>13 (1) A responsible person for an animal must ensure the minimum care requirements for the animal have been met.</p> <p>13 (2) The minimum requirements are....</p> <p>14. What is appropriate for minimum care requirements?</p> <p>15. Appropriate Food</p> <p>16. Appropriate Drink</p> <p>17. Appropriate Shelter</p> <p>18. Appropriate exercise</p>	<p>As previously outlined above, the NSW Greyhound Racing Industry is already heavily regulated, with its own Greyhound Welfare Code of Practice, contained within the <i>Greyhound Racing Act</i> which provides world class minimum standards for the keeping and care of racing greyhounds, and retired greyhounds kept by industry participants.</p> <p>Additional to those minimum standards, the Greyhound Welfare and Integrity Commission has developed many fact sheets, guidelines and policies which support industry participants to meet these standards. Greyhound Racing NSW undertakes regular workshops and information sessions to also help industry participants to meet our standards.</p> <p>The minimum standards contained within the Code of Practice go well beyond what is in the draft Bill, and there is no need for further replication of this regulation for our industry.</p> <p>Outside of the greyhound racing industry, the Association is concerned with the intention of the draft Bill to set minimum standards for the care of all animals, without adequate consideration given to the nature of the relationship of the animal with human and its commercial impacts.</p>
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<p>Division 2</p> <p>20. Requirement to comply with standards</p> <p>21. Applying, adopting or incorporating standards</p> 	<p>The Association is extremely concerned with the requirement to comply with the prescribed standards included in the regulation when these standards and regulations have not been included as part of the draft Bill.</p> <p>Further, there is no indication regarding the timeframe for development of the prescribed standards, and their introduction. The Association feels this is confusing, vague, and makes it very challenging to appropriately consult and provide feedback on.</p> <p>We have already seen a flawed process with many proposals in this draft Bill not previously being transparently included in the initial consultation phases. The Association is incredibly concerned that standards and regulations will be developed with little or no consultation.</p> <p>The Association cannot support the Bill in its current form, with no prescribed standards or regulation to consult on being put through to parliament at this stage. The Association suggests that the consultation on the proposed standards and regulations should be finalised before this draft Bill is put to parliament.</p> <p>Again, the Association repeats that the greyhound racing industry is already very heavily regulated with some of the best welfare standards in the world, and there is no need to further replicate this regulation within this Bill for the industry.</p>
<p>Division 3</p> <p>22. Prohibited Procedures</p> 	<p>The Association is very concerned with the prohibition in 22(1)(e) of artificial insemination on a dog. This proposal was never part of the initial consultation on the animal welfare laws, and we remained concerned regarding its proposed introduction without consultation.</p> <p>The Association has already made submissions to the Minister for Agriculture, Mr Dugald Summers, regarding the impact of this proposal on our own, and many other dog breeding industries. The Association is very critical of the proposed clause, which appears to have been included without any scientific or evidence-based reasoning, or any consideration of the commercial impacts of the decision on our very valuable dog breeding industries in Australia.</p> <p>However, as the Minister has now provided us with written confirmation that this draft clause will be removed from the Bill, no further comment will be made on this clause.</p>

PART 4: OFFENCES RELATING TO ANIMAL CRUELTY

25.1 – Definition of cruelty	<p>The Association has already outlined its thoughts regarding the definition of cruelty and aggravated cruelty above and reiterates the concerns of the subjective nature of that definition in the application of Sections 25 and 26.</p>
27. Abandoning animals	<p>The proposed section does not cover unique circumstances which arise in the greyhound racing industry.</p> <p>An example of this is where the legal owner of a greyhound leaves the greyhound with a trainer, who is undertaking day to day care of that greyhound in line with the NSW Greyhound Welfare Code of Practice. In these circumstances, the welfare of the greyhound is not at risk, given that it is being appropriately cared for by the trainer.</p> <p>The NSW Greyhound Racing industry has a specific rule, LR106B of the greyhound racing rules which address these unique circumstances. This rule allows trainers who have care and custody of a greyhound to rehome the greyhound if the owner of that greyhound does not take care of the greyhound.</p> <p>The rule is positive welfare based and focuses on always ensuring the safe rehoming and care of the greyhound. There is no need for replication of this regulation for our industry.</p>
<p>Division 2 Animal Fighting and Live Baiting</p> <p>33. Prohibition on live baiting</p> <p>33 (2) An animal includes a part of an animal, including a carcass, skin or reproductive material</p> <p>In proceedings for offence evidence the person charged with the offence was:</p> <p>33 (4)(a) in possession of an animal that appeared to have been used for live baiting, or as a lure or kill for trialing, training or racing a coursing dog is evidence the person used the animal for live baiting or as a lure or kill unless rebutted</p> <p>33 (4) (b) the responsible person for an animal or a species prescribed by the regulations at a place for the trialing, training or</p>	<p>Live baiting is an extremely serious offence, which already attracts a strong regulatory approach within the greyhound racing industry.</p> <p>The definition of live baiting under 33(6) ‘means using an animal as a lure or kill for the purpose of blooding greyhounds. This is clearly targeted and industry specific, which is disappointing given that live baiting can occur with any breed of canine, it is not unique to the greyhound racing industry.</p> <p>Additionally, the proposed sections 33, in particular 33(4)(a) and 33(4)(b) indicate that the proposed live baiting prohibitions only apply to greyhounds and coursing dogs, again a targeted and industry specific regulation.</p> <p>The Association is concerned with the vagueness of the proposed Section 33(4), a person in possession of an animal '<i>that appears to have been used for live baiting</i>' is too broad and does not require adequate evidence to be produced in order to prosecute an individual for an offence that carries such severe penalties. The subjective nature of Section 33(4) (a) could see individuals prosecuted in circumstances where live baiting has not actually occurred.</p> <p>Whilst the Association agrees that live baiting offences are extremely serious and require heavy penalties for offenders,</p>

<p>racing a coursing dog is evidence the person was in possession of, kept or used an animal for use as lure or kill unless rebutted</p> <p>33 (6) live baiting means using an animal as a lure or kill for the purpose of blooding greyhounds</p> 	<p>there is also a need to clearly distinguish between live baiting offences and other activities that do not utilise live animals.</p> <p>The definition of animal under Section 33(2) includes '<i>a part of an animal, including a carcass, skin or reproductive material</i>' is also too broad to address the actual objective of penalising live baiting, and instead may capture the use of reward-based training stimuli, such as treats or commercially purchased pet food used to train canines.</p> <p>The impact of this definition of an animal within the confines of the live baiting legislative framework unfairly penalises greyhound racing participants by reducing their ability to utilise adequate stimuli to better train greyhounds with reward-based training methods, as is allowed for other canines.</p> <p>Reward based training is a widely accepted canine training technique which involves providing a reward for a canine when it completes a task. Food-based treats are widely utilised throughout various canine training industries and by pet owners.</p> <p>Live baiting is already heavily regulated by the NSW <i>Greyhound Racing Act</i> and Greyhound Racing rules, and within the <i>Crimes Act 1900</i> with strong penalties for participants who are found to be live baiting within the greyhound racing industry.</p> <p>There is no need for replication of this regulation by way of proposed Section 33 of the draft Bill. The Association strongly feels that the current regulations, enforced by the Greyhound Welfare and Integrity Commission are sufficient.</p>
<p>37. Requirements for transporting dogs.</p> <p>37(6) Hot weather means ambient temperature of 28 degrees or more</p> 	<p>Once again, the Greyhound Racing industry already has standards for transporting dogs, under the NSW Greyhound Welfare Code of Practice, regulated by the Greyhound Welfare and Integrity Commission (GWIC).</p> <p>The standards contained within the Code of Practice for transporting dogs are already much higher than those provided for in the draft Bill. Additionally, policies supporting the Code of Practice, such as the <i>Race Day Hydration Policy</i> also provide higher standards than those proposed in the draft Bill.</p> <p>Given our already very high minimum standards in these areas, there is no need to replicate this regulation in the greyhound racing industry.</p>
<p>Division 6</p> <p>40. Prohibition on prohibited items</p>	<p>The Greyhound Racing Rules and regulations already contain provisions in relation to the prohibition of electrical devices. There is no need to duplicate this regulation within the industry.</p>

PART 5: LICENCING AND APPROVALS

Part 5 Licencing and Approvals 42. Requirement to be licenced	Licencing and registration within the greyhound racing industry is contained within Division 2 and Division 3 of the <i>NSW Greyhound Racing Act</i> . The Greyhound Welfare and Integrity commission has carriage of licencing and registration under the Act, with all industry participants, and their greyhounds registered and regulated under these provisions. The proposed draft Bill does not contain any reference to the greyhound racing industry licencing and regulation. It is necessary to ensure that there is not duplication of the regulation and functions of licencing and registration in the greyhound racing industry.
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PART 7: ENFORCEMENT AND COMPLIANCE

Division 8 Approved Charitable Organisations 100. Definitions 102.	The Association would like to see further explanation of what defines an approved charitable organisation. Just having charitable status should not be sufficient to determine that an organisation is an approved charitable organisation under this legislation. The greyhound racing industry, and many other commercial animal-based industries are heavily concerned regarding the transparency of charitable organisations that are provided with powers under animal welfare legislation when they clearly hold a conflict of interest by way of their lobbying against certain industries to have them shut down. The Association believes that more information for transparency should be required to be included in annual reports, to truly identify where funding is applied.
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PART 8: LEGAL PROCEEDINGS

119. Exemptions	The Association submits that the greyhound racing industry, as detailed above, is highly regulated, with much duplication already existing within industry legislation and regulation. Based on this, the greyhound racing industry should be exempt where duplication already occurs.
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Summary

The Association is concerned with a number of aspects of the proposed draft Bill, as outlined above. The Association **cannot support** the progression of the draft Bill to parliament in its current form.





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