

Submission
No 97

INQUIRY INTO ANIMAL WELFARE POLICY IN NEW SOUTH WALES

Organisation: Canary and Cage Bird Federation of Australia Inc.

Date Received: 28 February 2022

28/2/2022

Standing Committee on State Development (the Committee)
NSW Legislative Council

RE: Inquiry into Animal Welfare Policy NSW 2022

The Canary and Cage Bird Federation of Australia Inc. (CCBFA) membership includes some 250 avicultural (bird keeping and breeding) clubs, representative bodies and organisations nationally.

We are committed to ensuring and improving welfare outcomes for all birds held in captivity, including pets through to large avicultural collections. This must be done in a collaborative manner such that the extensive expertise, standards and codes already in place within our network of clubs is acknowledged. Much of this expertise has been honed over hundreds of years.

There is widespread concern amongst our members over the undue influence of extreme animal rights ideologies that seek to ban the keeping of all animals in captivity. Such influences, on the surface appear to focus on animal welfare when in fact their aim is to chip away at the rights of the public to keep animals in captivity.

We recommend the following is addressed within the *Animal Welfare Bill 2022* (the Bill) and encourage the Committee to do likewise:

Recommendation 1

The Bill should strive to improve the welfare of animals through education.

Edit Section 3(a) to include the word "improve" so it reads as follows.

(c) to improve and promote the welfare of animals, and

Add Section 4(a)(iv) as follows

(iv) requiring ongoing testable educational programs to be implemented and monitored to verify animal welfare improvements

- (a) There is a strong public push to improve animal welfare outcomes across the state, not simply maintain the status quo.
- (b) In our earlier submission to this process, we made the following three (3) recommendations, none of which has been given due consideration.

Recommendation 1. Achievement of animal welfare outcomes should be testable over time using independent scientifically and statistically valid measures.

Recommendation 2. Understandable and enforceable standards (and accompanying guidelines) developed and maintained in close consultation with stakeholder experts should be the core of animal welfare regulation.

Recommendation 3. Education should take a leading role over compliance operations.

- (c) The current 3(a) object, even without our recommended edits, is not implemented with any surety within the Bill. The entire Bill is implementing 3(b) and largely ignoring 3(a).

Recommendation 2A

Introduce the concept of an “accepted standards and guidelines” document. Unlike a “prescribed standard”, “accepted standards and guidelines” are not enforceable and do not attract a penalty, however they can be used as a defence.

Append the following words to Section 20(2)

*or an **accepted standards and guidelines document**.*

Add the following to the Schedule 3 Dictionary

***accepted standards and guidelines** means a document prepared by an industry representative organisation which has been demonstrated to specify sound animal welfare practices.*

- (a) There are numerous documents produced by aviculture (and other industries) whose purpose is to improve animal welfare. Such documents go far beyond standards suited to enforcement by compliance officers.
- (b) Recognising the significance of industry developed codes of practice and industry-based standards and guidelines adds value and improves the welfare of animals.
- (c) The Minimum care requirements apply to all animals. We envisage a system where additional prescribed standards are specified for some activities where there is a history or identified risk of cruelty occurring. For activities where there is little or no history of cruelty the implication is that existing community or industry-based controls are working. Such industry controls should be supported and encouraged as non-enforceable **accepted standards and guidelines**.

Recommendation 2B

The detail of standards and guidelines document preparation must be specified within the Bill.

Add Section 21A between section 21 and 22 as follows

*21A Preparation of **prescribed standards***

- (1) *A list of industry representative organisations for each prescribed standard must be maintained.*
- (2) *Development and maintenance of each prescribed standard to include collaboration with the list of industry representative organisations as described in the “IAP2 Spectrum of Public Participation” under “collaborate”.*

Add the following to the Schedule 3 Dictionary

***industry representative organisation** means an organisation demonstrated to represent the interests of a significant proportion of the participants in that industry.*

- (a) The IAP2 Spectrum of Public Participation is here https://iap2.org.au/wp-content/uploads/2020/01/2018_IAP2_Spectrum.pdf
- (b) Prescribed standards must be accepted by industry. This can only occur when industry has been integral to their development and ongoing maintenance over time.

Recommendation 3

The power of entry provisions onto residential land in the Bill are a significant improvement, however there are some anomalies which may result in inconsistencies of approach by authorised officers.

Delete Section 66 in its entirety.

- (a) Section 66 and 67 of the Bill are essentially saying the same things. The differences in wording will result in different legal interpretations by the organisations employing the authorised officers and the courts. Section 67 is the more straightforward, plain English version.
- (b) Current Section 66(1)(d), (e), (f) should require consent or a search warrant and therefore should be deleted, which then means section 66(2) is no longer required. Hence delete Section 66 and retain section 67.
- (c) Privacy on residential premises is a basic human right and trespass is a serious matter. Entry onto premises (which includes land) used for residential purposes should not be granted lightly, particularly to officers authorised to enforce the law.

Recommendation 4

Recovery of costs for veterinary, kennelling and other fees involved in the maintenance of seized animals under the Bill should be met by the Crown.

Replace the words “responsible person for the animal” in Section 85(2) with the word “Crown” so it reads

(2) The entity may charge the Crown a fee for the authorised officer’s exercise of a function in relation to the animal.

- (a) We are aware of numerous cases where charges are not contested due to the estimates of large fees imposed by RSPCA NSW to maintain animals whilst court action occurs. People are pleading guilty on financial grounds, not on the merits of the case.
- (b) RSPCA NSW is entitled to recover their costs - we understand in a significant proportion of cases they are unable to recover costs from the “responsible person” and rely on donated funds. In our view, it is unethical for donated funds to charities to be used to fund matters for which they act for the Crown.
- (c) The Crown is responsible for all incarceration costs incurred when people are held in custody, regardless of the outcome of the case, the same should occur for animal maintenance charges under this Bill.

We welcome contact by members of the Committee as the inquiry progresses.

Kind regards,

Sam Davis
President - Canary and Cage Bird Federation of Australia Inc.