

**Submission
No 102**

INQUIRY INTO ANIMAL WELFARE POLICY IN NEW SOUTH WALES

Organisation: NSWACT Deputy Vice-Chancellors (Research) Committee

Date Received: 28 February 2022



28 February 2022

The Hon. Catherine Cusack, MLC
Chair, Standing Committee on State Development
NSW Parliament House
SYDNEY NSW 2000

By online submission

Dear Ms Cusack

STANDING COMMITTEE ON STATE DEVELOPMENT'S INQUIRY INTO ANIMAL WELFARE POLICY IN NEW SOUTH WALES

I write to you as Chair of the NSW/ACT Deputy Vice-Chancellors (Research) Committee (the Committee). By way of background, the Committee is comprised of the fourteen universities based in NSW and the ACT. It is an unincorporated forum for these universities to share information and engage with senior government officials, departments and the community. The fourteen member universities are listed below:

1. Australian Catholic University
2. Australian National University
3. Charles Sturt University
4. Macquarie University
5. Southern Cross University
6. University of Canberra
7. University of New England
8. University of Newcastle
9. University of Notre Dame, Sydney
10. University of Sydney
11. University of Technology Sydney
12. University of NSW
13. University of Wollongong
14. Western Sydney University

This submission is made on behalf of several universities and is intended to provide the Standing Committee on State Development with a collaborative university sector response.

The Committee welcomes the opportunity to provide a submission to the inquiry into the NSW Government's proposed animal welfare policy, and the associated legislative and regulatory framework including the Draft Animal Welfare Bill 2022 (the Draft Bill).

We have a number of concerns regarding the Draft Bill which provides troublingly little detail on animal research compared with that provided in the *Animal Research Act 1985* (ARA). We understand that it is proposed to provide this detail in the Regulations, but we have no clarity on what this will include. We therefore raise the following matters for your consideration:

1. NSW was an Australian leader in 1985, establishing the dedicated *Animal Research Act* (ARA) governing animal research in line with international best practice¹ so it is difficult to understand its decision to relinquish this standing. The proposal that it is better for NSW to follow the other states and territories into a single 'harmonising' Act carries significant risks to animal welfare and research given that this has not been uniformly successful elsewhere. There are current situations where the 'minimum standards' set by legislation in other states and territories fail to meet the standards described in the Australian Code for the care and use of animals for scientific purposes 2013 (the Code) and while the Act may reference the Code, researchers are left to meet the Code requirements without the specific direction and penalties as delivered in NSW by the ARA.
2. The care and welfare of animals in research and teaching is highly specific and requires well-defined

¹ [UK](#), [Netherlands](#), [EU](#)

NSWVCC MEMBERS:

Australian Catholic University • Australian National University • Charles Sturt University • Macquarie University • Southern Cross University
University of Canberra • University of Newcastle • University of New England • University of New South Wales • University of Notre Dame
The University of Sydney • University of Technology, Sydney • University of Wollongong • Western Sydney University
Contact: Ellen Goh, Executive Office

and unique principles and processes. This is best delivered by a discrete and nuanced regulatory environment to which the community provides social licence particularly, but not exclusively through membership of Animal Ethics Committees. Maintaining the ARA that embraces research animal welfare, the Code and vigorously adopts the 3Rs² framework will achieve this.

3. Listing animal research in the Draft Bill as a 'specific exemption' could further erode this social licence. Unlike the ARA, the Draft Bill provides little evidence of the rigorous regulatory controls for animal research and teaching that currently apply. It would therefore not be unreasonable for the community to believe that animal research has been given a 'free pass' particularly when it is compared to the other activities given a specific exemption without similar regulatory rigour. The exemptions that allow the use of live decapod crustaceans and cephalopods as bait in fishing, and the destruction of pest animals could tarnish the animal research exemption if it is not clear to the community that the ARA provides strict welfare controls and compliance for animal research and teaching.
4. The decision to detail the regulatory requirements in the Regulations rather than the Act has both positive and negative connotations. Regulations can be amended with significant agility in response to changing circumstances or new knowledge which allows the regulatory environment to retain its currency. But in a similar manner, changes to regulations can be based on ill-informed biases and personal or political opinion without adequate stakeholder engagement, both of which can result in reduced animal welfare, compromised international scientific and academic positioning, damage to long term research studies and economic loss. The recent example of political decision without consultation occurred when the WA government decided to close the Animal Resources Centre in Perth. If this had progressed without stakeholder intervention, it could have resulted in interruption to COVID vaccine research, development and production that is so critical to the community wellbeing in the current pandemic. Using the Act as the source of regulatory direction, provides greater assurance that similar situations with unanticipated collateral damage for animals, humans and the environment can be avoided. Other examples of regulatory interference that either increases administrative load without any benefit to animal welfare or reduces protections to animals can be seen respectively with regard to the scientific user registration requirements in Queensland and the changes to the authorised providers under the Veterinary Practice Regulations in South Australia.

In conclusion, the Committee therefore urges there to be a reconsideration of the proposed repeal of the ARA and replacement by the Draft Bill. There are significant potential negative consequences to animal research and more importantly to research animal welfare, international standing and the NSW economy. Should the decision be to adopt the Draft Bill and the proposal to provide the legislative details in the Regulation, the Committee would request that a targeted consultation be held with the animal research community and its stakeholders. This will ensure that all relevant controls are included at an international best practice standard prior to the release of the Regulation for public consultation.

If you have any questions then please do not hesitate to contact Ms Ellen Goh, the Executive Officer for the Committee

Yours sincerely

Professor Jennifer L Martin AC
Deputy Vice-Chancellor (Research and Innovation), University of Wollongong &
Chair, NSW/ACT Deputy Vice-Chancellors (Research) Committee
Cc. NSW/ACT DVC(R)C members

² Replacement, reduction and refinement as proposed in Russell, WMS & Burch, RL, 1959, The Principles of Humane Experimental Technique. Wheathampstead (UK): Universities Federation for Animal Welfare.
Contact: Ellen Goh, Executive Officer
NSW Vice-Chancellors' Committee.