

**Submission
No 105**

INQUIRY INTO ANIMAL WELFARE POLICY IN NEW SOUTH WALES

Organisation: The University of New South Wales

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15 February 2022

The Director, Standing Committee on State Development
Via email: State.Development@parliament.nsw.gov.au

Submission to Standing Committee on State Development,

Re: Draft Animal Welfare Bill

Thank you for the opportunity to comment on the Draft Animal Welfare Bill.

As a broad comment, the University of New South Wales (UNSW) notes that the initial proposals were given qualified support with significant caveats that have not been addressed in the draft Animal Welfare Bill. Essentially, the draft Bill does not include the fundamental principles of the *Animal Research Act* (ARA) including the basis that animal research can only be carried out with the approval from an Animal Ethics Committee (AEC) and in accordance with the *Australian code for the care and use of animals for scientific purposes* (the 'Code'). This core component of the ARA was established to afford high standards of protection for animals used in connection with research, a primary purpose for establishing this separate Act that could not be achieved under the *Prevention of Cruelty to Animals Act 1979*. As such, it can be argued that the Bill, as it currently stands, is not inherently applicable to the conduct of animal research when performed in an accredited research institution with ethical review and oversight by an AEC.

UNSW sees the benefit of streamlining the frameworks where possible to reduce duplication across multiple Acts and improve consistency to minimise confusion, particularly where it may result in potential for non-compliance. However, UNSW strongly reiterates its original position asserting the importance of retaining sections of the ARA that are proven to be effective in maintaining a high level of animal welfare.

Specifically, it is important to strengthen the Bill in relation to the governance of animal research by reflecting the system of ethical review and oversight by AECs, including the constitution, function, and appointment of AECs in accordance with the *Code* to ensure consistency with a national approach. The current process under the ARA whereby AECs have oversight of animal research (including the breeding and routine husbandry of animals) with strong mandated community participation in decision-making and post-approval monitoring enables a timely focus and attention to the particulars of each protocol and facilitates wider community input. Each protocol is assessed on a case-by-case basis. In deciding whether or not a project is ethically acceptable AEC members must consider all available evidence as to the impact on the wellbeing of the animals involved and how that will be minimised as well as the scientific justification for the use of animals and judge whether, on balance, the predicted impact on those animals involved is justified by the potential social and scientific benefits. The AEC needs to be satisfied that the ethical and animal welfare standards of the *Code* are met not only in the initial approval but also, through post-approval monitoring and reporting requirements, throughout the lifetime of a project. This provides a very high level of protection for animals on an individual level and puts in place a higher standard of animal care and husbandry than can be achieved under the proposed Bill.

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Further, while the objectives of the Bill are to be achieved through a licencing framework to regulate and oversee the use of animals for research purposes consistent with the principles of replacement, reduction, and refinement, it should be noted that in the *Code* and supplementary NHMRC guidelines, whilst the '3R' principles are important enablers, consideration of these alone does not satisfy ethical justification. Notably, even if the 3Rs principles are met it is not ethically justified to use animals if the project is not scientifically valid. As such, the proposed approach does not accurately reflect the rigour of the ethical review process that extends beyond the 3Rs to include the assessment of the benefits, costs and scientific validity of animal research studies. Revising the objectives of the Bill to focus on ethical approval of animal research activities by an AEC in accordance with the *Code* clearly establishes a higher benchmark that protects the welfare and recognises the interests of the animals involved.

Moreover, the Bill details that the Animal Research Review Panel is delegated under the draft Bill to 'investigate' applications for licences. However, unlike the ARA, there is a lack of detail regarding practicalities of the licencing process including the licencing authority, who the licence is issued too and how an institution will be licenced. In addition, the draft Bill does not encompass in detail the regulation of carrying out animal research, licencing and the supply of animals which are important objectives under the ARA that extend the intent of the Act beyond just the protection of animal welfare during research alone.

As it currently stands, the Bill proposes to provide the powers for the Regulation to establish details of the animal research licencing scheme including the role of AECs, noting that this inherently allows the regulations the flexibility to promptly respond to emerging issues or changing evidence. While there is benefit of this standard of practice for matters that are open to changes in evidence, UNSW strongly disagrees with the approach to extend this to the core principle of the ARA, that is, the basis that animal research can only be carried with the approval from an AEC and in accordance with the *Code* and does not view this as a negotiable requirement given its importance in maintaining high standards of animal welfare. The lack of specificity for animal research and AEC processes within the Bill, together with the delegation of these powers to the regulations, opens substantial risk that the importance of these principles will be weakened, and its function made ineffective in protecting animals used in research in a way that is currently achieved through the AECs. As such, UNSW strongly reiterates the need for these fundamental principles to be underpinned within the Act to reaffirm a standard of practice that provides sufficient certainty in ensuring a strong and well-rounded regulatory framework for animal research.

Thank you again for allowing UNSW Sydney the opportunity to comment on the draft Bill and I look forward to close consultation in the drafting of the regulations.

Yours sincerely,

Professor Sven Rogge
Pro Vice-Chancellor (Research)