

Submission
No 133

**INQUIRY INTO ANIMAL WELFARE POLICY IN NEW
SOUTH WALES**

Name: Name suppressed

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Partially
Confidential

Submission for NSW Draft Animal Welfare Bill

I am very disappointed with this “reform”, as it appears the NSW government has decided on proceeding with much the same policies as previously established. I have been volunteering and working with various animal welfare organisations for near twenty years.

My input/feedback relates to just some of the issues which I recommend should be taken on board to truly improve outcomes for the animals.

1. An independent animal welfare office and officer should be established to oversee all care for animals within NSW, and to liaise with similar roles in other states/territories and at a federal level.

- a. The current organisations responsible for enforcement eg RSPCA, have conflicts of interest with the NSW government & clear “separation of duties” should be mandatory.
- b. The scope of animal welfare should not be managed by the NSW Department of Primary Industry (DPI) responsible for “driving” stronger industries’ outcomes which appear to give preference to commercial money making businesses over quality of life for the animals.
- c. The role for enforcement should be carried out with the police force as is done in other countries where the police have clear responsibilities, enabled to enter properties, respected by the community – animal inspectors never have the same authority.
- d. An independent organisation will assure independent reviews of complaints against any animal welfare organisations (be they charities or not). The existing organisations do not openly report on outcomes for their own charities let alone on incidents and complaints.

2. More clearly define roles and scenarios for abandonment are needed

It appears there is lack of clarity on application of the term abandon, in understanding how animal cruelty offence may be applicable in practical situations, and that abandonment is a complete removal of all human support and care.

Another concern is that terms and definition for the three identified Acts for Reform may still not align with terms and definitions for animals in other Acts, including the Companion Animals Act. That is, terms and definitions within this reform may need to be reassessed and improved in the future if they conflict with other existing terms and definitions.

- a. I recommend that the roles and scenarios for providing care should be more clearly defined to differentiate between owners, responsible person, an individual, paid/waged staff/delegates, or volunteers who may or may not be delegated by an owner, or just members of the public who have decided to be a “good Samaritan”, and offer the help they can for an animal.

I also recommended that terms and definitions for the three Acts within this Reform are assessed and improved with alignment to the terms and definitions in other NSW Acts which involve animals, including the Companion Animals Act.

3. Abandoned cats in communities and their rescuers should be accepted and integrated in all related legislation and regulations, and policies at local government councils.

- a. Roaming cats should not be made illegal in NSW legislation nor in local council policies. This will incite cat haters to take matters into their own hands – literally as there is activity now with people killing suburban and owned cats if a cat is found roaming.
- b. There is an urgent need for a specific law formulated for it to be an offence for inciting/encouraging / urging violence to animals in written/printed or electronic material, or publishing in any form, especially electronically on social media, such actions to incite/encourage/ urge violence to animals. Comments on social pages are seen often in relation to hurting / killing animals, which encourages similar comments from others along the same lines.
- c. In formulating new offences, these considerations will be of value:

A. These actions by people may be similar to incitement offences that we note are included in the NSW Crimes Prevention Act 1916:

“3 Printing or publishing writing inciting to crimes

If any person prints or publishes any writing which incites to, urges, aids, or encourages the commission of crimes or the carrying on of any operations for or by the commission of crimes, such person shall be guilty of an offence against this Act, and shall be liable to imprisonment for any term not exceeding six months or to a penalty not exceeding 1 penalty unit.”

B. The recent ruling that owners/publishers of social media pages etc may be liable for comments/ posts/ etc of their followers/ members/ audience should be applicable to people inciting violence to animals. This has been distributed by a number of

news/media organisations including SBS: NITV 8 SEP 2021 “High Court rules media liable for Facebook comments”. It is of interest as it was in relation to defamation, but the ruling has a level of similarity for owners of social media / electronic pages, (eg facebook pages) to have responsibility and accountability for comments posted by other people.

"The original ruling found media companies were "publishers" of third-party posts on their Facebook pages, making them liable for their audience's defamatory statements."

- d. Those who perform trap neuter rehome or release should not be deemed to be performing illegal actions nor breaking any laws. Those performing TN rehome or return should not be held responsible for depriving animals of care.
- e. The offense of abandoning an animal is too broad and may be interpreted as including desexing stray cats – this needs to be changed. The NSW government should be doing as much as possible to reduce the number of cats being born each year.

4. In relation to the NSW response to community cats and TNR programs as contained in the NSW Consultation Outline document page 46, it included:

“The NSW government is engaged with other, more effective strategies for reducing the number of cats entering the unowned cat populations – including funding research and trials of integrated management strategies, community educations around the importance of desexing, and requiring owners of undesexed cats to obtain an annual permit”

- a. The NSW government should include small rescues as part of their “integrated management strategies”. Within NSW here are hundreds of such small groups, who have chosen not to become a registered Rehoming Organisation.
 - The new Rehoming Organisation obligations established by the NSW government have included some improvements but also have included obligations more burdensome than those set for the RSPCA an organisation with paid staff and receiving many millions of donations per year.
 - Small animal (predominantly cats and dogs) rescues take on the burden of abandoned pets, through their own \$ donations and predominantly volunteer resourced organisations.

- Small animal rescue groups take in animals from surrenders or found alone, are rehomed without going through the council pound facilities, relieving council pound staff, other resources and \$ funds from the government and taxpayers.

- b. There needs to be a much greater investment in community education programs. There is a need to focus in specific geographical areas where animals are abandoned to the streets in significant numbers – basically there are many “hot spots” which need intensive education and change management to address cultural issues. In some of these hot spots there are cultural or religious differences in views on desexing, and quality of life obligations for animals.

- c. Desexing programs need to be uncoupled from the NSW pet registration fees to be more effective. The NSW pet registration fees are not cost effective, nor encouraging more owners to desex nor register their pets. The amount of monies gathered are likely to barely cover the costs of administration staff at the state and local government levels. This means very little funds are available to make effective improvements for animals.

The \$80 fee for not desexing a cat before 4 months of age is not fair nor reasonable to people who did not own the cat before that age, it should not apply even one time, once a cat has been desexed. In the latter case it just appears punitive.

Please refer to the petition sent to the NSW government for more information on why the \$80 fee is not likely to motivate those who already do not desex their animals:

<https://www.change.org/p/nsw-minister-for-local-government-shelley-hancock-stop-nsw-s-unfair-fee-tax-fine-levy-on-desexed-cats?>

5. Improve exemptions definitions for the proposed new offence of production or distribution of animal cruelty material

- a. Exemptions should include any whistle blowers on animal cruelty in any form, included on private property. They are working to stop animal cruelty, not promote it.

- b. In the exemptions, include any footage or activities by people working to raise concerns about animal cruelty completed by others or raise awareness of practices in industries.