Submission No 134

INQUIRY INTO ANIMAL WELFARE POLICY IN NEW SOUTH WALES

Name: Name suppressed

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Animal Welfare bill 2022 – Feedback to Parliament.

1. Of primary concern is that NGOs are becoming indistinguishable from the DPI (Government) as proponents for legislation. I have provided comments to a range of legislation which pretty much has gone unheard. Meanwhile, our charities, with ready channels of communication, bolstered through Government grants in terms of research, appear to get an inside run to push often ideological, biased, or self-aggrandising input. There is evidence of this input in this draft bill. The result is that conflicts of interest become unimportant, the role of charities is blurred, and ideology rather than pragmatic change filters into legislation. Some examples to illustrate the above points follow.

a. Division 2, key concepts, para 7, of the draft bill provides examples or concepts about the 'act of cruelty'. Subparagraphs (c) and (d) are ideology not about cruelty. These subparagraphs should not appear in any legislation. Actions such as (c) '… authorising, controlling, managing and receiving payment…'; and (d) '… advertising or promoting ..', even if perceived to be part of an activity considered cruel, are not actions of themselves that are cruel. Notwithstanding, the activities of themselves are also not cruel. The activities simply require appropriate oversight, regulation and standards to operate compassionately. This type of overreach undermines true acts of cruelty.

b. Part 1, para 4, (a), (i) of the draft bill outlines how objects will be achieved. Acceptable care is described as minimum care requirements which includes providing water to animals or pets. It is consequentially disproportionate to legislate that no water over 48 hours can result in a category two penalty, or 12 months imprisonment, 3 years after an event. Yet this prosecutorial outcome is unconditionally an outcome within the draft bill. I understand inspectors can soften how they might apply good will variations. But these expressions of goodwill are not being legislated. Humans can go without water for the same period so placing unreasonable expectations for pets is over the top. If this is an over-simplification of a control for a complex range of animals, over a range of environments, then the result is not only incongruous but its punitive.

c. Schedule 3, is a dictionary for the draft bill. Within Schedule 3, animal means - a member of a vertebrate species including; an **amphibian**, bird, **fish**, mammal other than human, **reptile**, **cephalopod**, and **decapod crustacean**. This definition involves ideology. Any practical notion becomes incredulous that penalties could apply for minimum care requirements/infringements arising from exercise, food, water, and shelter for an amphibian, fish, cephalopod or crustacean. That this definition exists in legislation is immediately concerning for the animals indicated. They should be removed from the definition.

The problem with moving from principles of cruelty to a standard of welfare

2. Smashing together a range of animals into a complex mix of different foci obviously ticks the box for reducing (modernising) legislation. However, within this draft bill, it appears that many responsibility scenarios are linked to the one minimum care standard. By doing so, the overall context of cruelty has been objectified. By way of example, companion animals are complex within their own cohort. The intransigence of minimum care requirements means that unstated overt cruelty can be discounted. The result is that the broader intent behind the principle of cruelty is lost to a listed welfare standard. The following points explain a few obvious detriments.

a. Pet ownership occurs at several levels. From residential companions, to recreational or hobby breeders, to commercial breeding enterprises. One of the more egregious forms of animal cruelty is to breed animals with insufficient diversity. Getting this wrong at any level can mean progeny that exhibit poor temperament, grow smaller in size, and suffer from a range of health concerns. Certain breeds are known to have significant inbreeding coefficients. Yet, this draft bill is silent about such cruelty. To compound this oversight, residential companion owners will have limited

understanding of the issue[1] and commercial enterprises will discount the issue amidst competing pressures. Inbreeding would be indefensible under the principle of 'protecting from cruelty'. The one tenuous link to inbreeding, in this draft bill, is deformity – listed under aggravated cruelty. Having no clear control for this kind of cruelty, intentional or otherwise, can result in high care costs, high abandonment overheads, and poor wellbeing prospects for the animal concerned, throughout life.

b. **Culling animals.** Shooting brumbies in the wild or cats on foreshores has occurred and from government bodies, with limited fanfare. Generally, one hears of these forays post event and often with intransparent repercussions. The public needs confidence that managing bodies are undertaking necessary culling programs with accountability. Chasing animals from helicopters and mis-shooting cats around the rocks of breakwaters, no matter how well intentioned, is abusive and cruel. Aside from perceptions of operating outside of the law, the draft bill should have notes or clauses that hold responsible officers accountable should ill-considered culling programs result in cruelty.

c. **Commercial or private institutions.** Entities which exhibit animals or conduct animal research should be undertaking audits and not just responding to inspections. The respective advisory and review panels should be routinely reviewing audit outcomes in order to establish that processes exist to drive required practices.

Labelling (naming of the bill)

3. I understand that British legislation has already been modernised to reflect animal welfare. I also understand that expectation exists for some form of transformation to happen, uplifting that nations' welfare for animals. Clearly, these global exertions will be difficult to resist from an Australian point of view. I would counter such thinking by saying that Australian's know and understand what 'prevention of cruelty' means. It could reasonably be said that it is intrinsically a part of our culture, so the label is of itself meaningfully explicit. Accordingly, actions of themselves which are cruel, imply crossing a line – intentionally or otherwise.

4. In contrast, 'animal welfare' can mean either how an animal fares or government delivered services. It necessarily follows that one must now determine, from an abundance of words exemplifying cruelty, how they might situate or interpret into a personal obligation. Legislation should be about setting common laws for people. One can readily associate the draft bill as being about animal welfare rather than people welfare, and that outcome is insidiously confusing.

5. **NGOs - too close to government.** The naming and ideology content within this draft bill suggests that government is too close to NGOs. Whether this has occurred by gaining familiarity through consultations or by seeking synchronised goals, there can be no denying that RSPCA and AWL objectives for animals are being locked in to legislation. To reiterate, legislation should be about people and not about animals. In moving to welfare for animals clearly the change reflects an affinity for NGO ideology and opens the door to forms of activism.

6. **Presumption of charity purpose.** DPI enforces provisions in this draft bill by partnering with charities. The charities Act, 2013 indicates that charities should not be government entities. That is tricky to achieve given that Charity employed Inspectors are appointed by the Department secretary (DIV 7, Clause 89, (1) (b), to operate as Authorised Officers, protected by the government from liability (Clause 160 (2) (b)). Even the complaints against authorised officers are managed by the department and not the charity. Clearly the two organisations have a common governance arrangement, which is

[1] In order to understand bloodlines and parental heritage a pedigree is required. Residential owners and commercial enterprises are unlikely to know about or either concede or require such documentation.

not only being set by government but also be legislated.

7. **Conflicts of interest.** Components of fines issued by Charity Inspectors are channelled back to Charities via government funding. Recovery costs for seizures (DIV 4 Clause 57 (6) (a) & (b) from a Charity Enforcement Officer, also results in funds going back to Charities. These are clear conflicts of interests.

8. **Balance of power.** Division 3, para 67, (1), in the draft bill states, "An authorised officer may only enter premises, or a part of premises, used for residential purposes" – and subpara (c) further states, "if the officer reasonably believes" - an animal has experienced conditions which include … 'is in imminent danger'. What this means is an officer may think something is untoward and, on that basis, enter a residence. This is clear overreach. Given levels of unlawful activism and general lack of truthfulness with ideological positions, some level of control must exist to prevent the misuse of power. No officer should be entering any residential premises without credible evidence or material facts that are sufficient to support a warrant.

Thank you for your consideration.

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