

**Submission
No 2**

INQUIRY INTO PUPPY FARMING IN NEW SOUTH WALES

Organisation: NSW Department of Primary Industries

Date Received: 4 March 2022

NSW Government Submission to the Select Committee on Puppy Farming in New South Wales

PREPARED BY THE NSW GOVERNMENT

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Executive summary

The NSW Government is committed to safeguarding animal welfare in NSW and providing a strong regulatory framework to promote responsible animal ownership and care.

All people breeding dogs and cats in NSW must comply with the *Prevention of Cruelty to Animals Act 1979* (POCTAA) and the *Prevention of Cruelty to Animals Regulation 2012* (POCTAR). In addition, any breeder who operates a business in the course of which dogs or cats are bred for fee or reward is required to comply with the NSW Animal Welfare Code of Practice: Breeding Dogs and Cats (Breeding Code).

The NSW Government works closely with the enforcement agencies under the POCTAA – RSPCA NSW and Animal Welfare League NSW – to ensure that breeders are complying with their legislative obligations.

Since the Joint Select Committee on Companion Animals Breeding Practices in NSW delivered their final report in 2015, the NSW Government has taken a number of steps to address concerns relating to companion animals breeding, including:

- in 2016, providing \$200,000 in funding to support a joint education campaign with RSPCA NSW and Animal Welfare League NSW to raise awareness about responsible pet purchasing and reporting of disreputable breeders
- in 2018, releasing the first-ever NSW Animal Welfare Action Plan, under which the NSW Government is committed to streamlining and modernising the animal welfare legislative framework in NSW
- in 2018, launching an improved NSW Pet Registry to enhance digital pet registration, which includes the ability for the public to search for owner and breeder details of animals advertised for sale
- in 2019, commencing new legislative requirements under POCTAA to require identifying information to be included in advertisements to sell or give away cats and dogs – boosting traceability and supporting prospective pet owners to make informed purchasing decisions
- in 2020, announcing \$400,000 in funding to support the establishment of a dedicated Puppy Factory Taskforce within RSPCA NSW – to focus on identifying and responding to puppy factory activity
- in July 2021, amending POCTAA to increase penalties for the most common animal welfare offences to some of the highest in the country – responding to concerns that maximum penalties were out of step with community expectations
- in August 2021, updating the Breeding Code to address key areas of concern raised by stakeholders and clarify the Breeding Code so it can be more easily understood and followed
- publishing the NSW DPI Consultation Paper: Licensing and regulation of cat and dog breeders (Consultation Paper) to seek community feedback on issues raised in relation to the current regulatory framework – including a proposal to introduce a dog breeder licensing scheme
- publishing the Draft Animal Welfare Bill 2022 (Draft Bill) for public consideration through the Standing Committee on State Development's inquiry into animal welfare policy in New South Wales, based on two rounds of public consultation on the NSW

Animal Welfare Reform – Issues Paper and NSW Animal Welfare Reform – Discussion Paper.

There is a wide range of views across stakeholder groups and the community about animal welfare issues. Recent feedback on the NSW Government's proposal to introduce a dog breeder licensing scheme demonstrates that there is no broad agreement on what further action is needed in relation to companion animal breeding.

Response to terms of reference

The NSW Government notes that the terms of reference of the Committee's inquiry are wide-ranging to allow the Committee to investigate a range of matters relating to companion animals breeding. This submission responds to the terms of reference that specifically relate to the current animal welfare legislative framework:

- (d) the adequacy of the current legislative and enforcement framework, including the Animal Welfare Code of Practice – Breeding of Dogs and Cats
- (e) the extent to which the recommendations of the 2015 Joint Select Committee on Companion Animal Breeding Practices in NSW have been implemented by the NSW Government
- (f) the impact of the NSW Government Consultation Paper 'Licensing and regulation of cat and dog breeders'
- (g) the impact and effectiveness of the NSW Government 'Puppy Factory Taskforce' announced on 23 October 2020.

The submission also provides a brief overview of the NSW Government's action to date in reviewing the animal welfare legislative framework.

(d) the adequacy of the current legislative and enforcement framework, including the Animal Welfare Code of Practice – Breeding of Dogs and Cats

Current legislative framework

Animal welfare in NSW is primarily regulated through POCTAA and POCTAR – which aim to prevent cruelty to animals and promote the welfare of animals. The provisions of POCTAA and POCTAR apply to all animals in NSW.

POCTAA and POCTAR contain a range of provisions that are relevant to companion animal breeders – for example, it is an offence to fail to provide an animal with proper and sufficient food, drink and shelter;¹ and to fail to exercise confined animals.²

In addition to the requirements in POCTAA and POCTAR, the Breeding Code sets out specific requirements relating to the welfare risks associated with breeding dogs and cats.

The Breeding Code is prescribed as a relevant Code of Practice through clauses 25 and 26 of POCTAR. This means that anyone conducting a business in the course of which dogs or cats are bred for fee or reward is required to comply with the Breeding Code.³

¹ Section 8(1) of POCTAA – maximum penalty for an individual is \$16,500 and/or 6 months imprisonment (\$82,500 for a corporation).

² Section 9(1) of POCTAA – maximum penalty for an individual is \$5,500 and/or 6 months imprisonment (\$27,500 for a corporation).

³ See clauses 25, 26 and Schedule 1 of the Prevention of Cruelty to Animals Regulation 2012 – the maximum penalty for a breach of the Breeding Code is \$5,500 for an individual (\$22,000 for a corporation).

The Breeding Code covers matters like:

- responsibilities and competency of persons in charge of premises used for breeding, and their assistants
- record keeping
- animal housing
- animal management, including basic care, food and water, cleaning and transport
- animal health, including veterinary care
- transfer of ownership
- breeding and rearing, including minimum mating ages and litter frequency

The Breeding Code has been in place since 2009 and was developed in consultation with a range of key industry stakeholders.

In August 2021, the NSW Government released an updated version of the Breeding Code following consultation with key stakeholder groups. The update made common-sense changes to ensure that everyone covered by the Breeding Code can understand and follow the Breeding Code's requirements and guidance. The key updates related to requirements around enclosure fence heights, vaccination requirements and mating ages. Some terminology within the Breeding Code was also updated to make it easier to understand.

(e) the extent to which the recommendations of the 2015 Joint Select Committee on Companion Animal Breeding Practices in NSW have been implemented by the NSW Government

The NSW Government provided a response to the report of the Joint Select Committee on Companion Animals Breeding Practices in NSW (the Report) on 26 February 2016. The NSW Government supported or supported in part 27 of the 34 recommendations made by the Report. Of the 27 recommendations that were supported or supported in part:

- Twenty recommendations have been completed.
- Seven recommendations are partially completed, underway or pending – with three of those recommendations being addressed as part of the NSW Government's commitment to modernise and streamline the animal welfare legislative framework.

The NSW Government continues to progress work to implement the recommendations, which is overseen by the Responsible Pet Ownership Reference Group – a group established by the Minister for Local Government to provide advice on strategic companion animal management issues. The group is chaired by Mr Justin Clancy MP and comprises representatives from a broad range of organisations with particular expertise in responsible pet ownership and companion animal matters.

(f) the impact of the NSW Government Consultation Paper 'Licensing and regulation of cat and dog breeders'

Overview

The Consultation Paper was published in November 2021, building on the NSW Government's significant work to improve welfare outcomes in companion animals breeding. The Consultation Paper set out a proposed approach to address community and stakeholder concerns with the current framework and sought feedback from the public about how best to regulate companion animals breeding into the future.

The Consultation Paper outlined proposed principles for a design of a licensing scheme and sought feedback centred on two key issues:

- which breeders should require a licence?
- whether any additional dog and cat breeders should be exempt from the Breeding Code?

More information on the Consultation Paper is available on the [NSW DPI website](#).

Consultation outcomes

The NSW Government received 164 submissions in response to the Consultation Paper. Approximately 12% of submissions were made on behalf of organisations – ranging from breed clubs through to industry peak bodies and advocacy organisations. The remaining 88% of submissions were from individuals – including breeders and interested community members.

Feedback was broken down into five main themes – see Table 1. Many respondents also provided general feedback relating to the regulation of companion animals breeding, such as:

- comments on how the regulatory scheme is, or should be, enforced
- comments highlighting risks of unintended consequences associated with introducing a licensing scheme
- comments emphasising the importance of education and community programs in addressing issues relating to companion animals breeding.

The NSW Government has developed a Consultation Outcomes report to provide a more detailed summary and analysis of the feedback received on the Consultation Paper.

Theme	Summary of feedback
Who should require a licence?	<ul style="list-style-type: none"> • Feedback was mixed on who should be required to obtain a licence. • Of those who provided specific comments around this, 53% provided feedback that <u>all</u> breeders should be required to obtain a licence while 47% commented that there should be some form of licensing threshold (i.e. a point below which a licence is not required) • Responses varied widely as to what that licensing threshold should be – though 77% of the responses that addressed this said this should be based on the number of breeding animals • 28 respondents commented that some or all members of breeding organisations should not be required to obtain a licence
How should a licensing scheme operate?	<p>Some main areas covered in the comments that addressed this theme included:</p> <ul style="list-style-type: none"> • Cost and administration (e.g. scaled fees, cost recovery, fee waivers) • Traceability and consumer information • Enforcement and auditing (e.g. regular audits) • Pre-approval considerations (e.g. application processes)
What welfare requirements should breeders have to meet?	<p>Some main areas covered in the comments that addressed this theme included:</p> <ul style="list-style-type: none"> • Litter restrictions and/or breeding ages • Provisions relating to veterinary oversight and genetic testing
Should anyone be exempt from some or all of those requirements?	<ul style="list-style-type: none"> • 85% of the respondents who commented on this theme indicated that there should be no exemptions from the Breeding Code • 9% indicated that some small breeders should be exempt from the Breeding Code • 6% indicated that only accidental litters should be exempt from the Breeding Code
How should the regulatory scheme apply to working dogs?	<ul style="list-style-type: none"> • 88% of the respondents who commented on this theme indicated that working dogs should be included in the new regulatory framework • Some respondents raised the option of developing a separate Code for working dogs that achieves equivalent welfare outcomes, or developing a 'modular' Breeding Code that applies additional, tailored requirements to certain breeders

Table 1: Summary of Consultation Paper feedback

(g) the impact and effectiveness of the NSW Government ‘Puppy Factory Taskforce’ announced on 23 October 2020

In October 2020, the NSW Government provided \$400,000 to RSPCA NSW to establish the Puppy Factory Taskforce – a dedicated compliance unit focused on increasing compliance activity following reports of heightened puppy factory activity during the COVID-19 pandemic.

From the period of 1 August 2020 to 31 December 2021, RSPCA NSW inspectors from the Puppy Factory Taskforce attended 373 breeding establishments and undertook 168 revisits, with approximately 6,677 animals inspected.

These inspections resulted in 174 notices being issued under section 24N of POCTAA, 57 Penalty Infringement Notices being issued in connection with breaches of the Breeding Code, and three prosecutions being initiated.

(k) any other related matter

NSW Animal Welfare Action Plan and the Draft Bill

In 2018, the NSW Government released the first ever NSW Animal Welfare Action Plan, which contained a commitment to modernise and streamline NSW’s animal welfare legislative framework.

In line with this commitment, the NSW Government has developed the Draft Bill, which is intended to replace the ageing POCTAA, *Exhibited Animals Protection Act 1986* and *Animal Research Act 1985* with a single contemporary animal welfare law.

The Draft Bill is currently being considered by the Standing Committee on State Development, through the Inquiry into animal welfare policy in NSW. This process allows stakeholders and the community to provide feedback on the Draft Bill prior to its finalisation and introduction into parliament. More information on the Draft Bill is available on the [NSW DPI website](#) and the [Parliament of NSW website](#).