

**Submission
No 4**

INQUIRY INTO PUPPY FARMING IN NEW SOUTH WALES

Organisation: Dogs NSW
Date Received: 6 March 2022



PATRON:
Her Excellency General The Honourable
Margaret Beazley AO QC,
Governor of New South Wales

6th March 2022

The Honorable Mick Veitch (ALP, LC Member)
Chair, Select Committee on Puppy Farming in New South Wales
Parliament of NSW

Re: Companion Animals Amendment (Puppy Farm) Bill 2021

DOGS NSW welcomes the opportunity to provide feedback to the Companion Animals Amendment (Puppy Farm) Bill 2021. DOGS NSW appreciates the premise behind the creation of the Companion Animals Amendment (Puppy Farms) Bill 2021, our feedback and concerns are provided herein.

1. DOGS NSW, a State member of the DOGS Australia (established 1958 as Australian National Kennel Club), is the largest independent body of dog breeders and shows in NSW. It currently has approximately 9,500 active members, and of these members 3,550 hold a breeding prefix.
2. The objects of DOGS NSW are¹:
 - (a) Promote and raise the standards of breeding purebred dogs.
 - (b) Maintain the Register of purebred dogs.
 - (c) Promote responsible dog ownership amongst the Members and community.
 - (d) Promote the various activities of DOGS NSW, which include Dog Shows, Obedience, Agility, Working and Sporting Dog Trials.
 - (e) DOGS NSW and its members support best breeding practices and assist and make contributions to canine veterinary research.
3. The welfare of animals is a primary concern of DOGS NSW and its members. DOGS NSW has a Code of Ethics and Regulations (the **DOGS NSW Regulations**)² which set a standard of obligations for its members to maintain the responsible care and treatment of animals in the course of breeding, training, dog sports and conformation showing of dogs.
4. Pursuant to the DOGS NSW Regulations, members of DOGS NSW are required to observe and comply with the *Companion Animals Act 1998* (NSW) (the **Companion Animals Act**) and the *Prevention of Cruelty to Animals Act 1979* (NSW) (the **Prevention of Cruelty Act**). A failure to comply with the above Legislation is a contravention of the DOGS NSW Regulations

¹ Introduction to DOGS NSW: https://www.dogsnew.org.au/media/1542/lecture_1a-introduction.pdf

² DOGS NSW Code of Ethics: <https://www.dogsnew.org.au/media/4103/part-13-code-of-ethics-july-2021.pdf>
DOGS NSW Regulations: <https://www.dogsnew.org.au/members/regulations/>

and a contravening member is subject to disciplinary action, including disqualification of membership and breeding rights, from DOGS NSW.

5. The Companion Animals Amendment (Puppy Farms) Bill 2021 has a real impact upon the largest body of independent breeders and sellers of dogs in NSW.

6. It is noted the NSW Department of Primary Industries (NSW DPI) sought community feedback on a Consultation Paper for the Licensing and Regulation of Cat and Dog Breeders between 16 November and 31 December 2021 (the Licensing Consultation Paper). DOGS NSW submitted its feedback to the Licensing Consultation Paper and is currently awaiting further proposals from the NSW DPI³.

7. It is also noted that the RSPCA definition of Puppy Farming is ‘an intensive dog breeding facility that is operated under inadequate conditions that fail to meet the dogs’ behavioural, social and/or physiological needs’⁴.

8. DOGS NSW sets out the following submission for consideration by the Committee as part of its Inquiry process with respect to the Companion Animals Amendment (Puppy Farms) Bill 2021:

Part 6A Regulation of Companion Animal Businesses

Division 1

Section 61A Definitions

9. The micro breeder definition is too limiting, particularly if a person has both dogs and cats. To limit a person to one potential breeding female per species is not sustainable in a sound purebred breeding program for breed preservation. Not all entire females can produce litters and any litter they may potentially produce may not produce progeny that could form part of a future breeding program. It is proven that numbers of pets a person keeps does not translate to poor welfare outcomes for those animals.

As many purebred breeders keep their puppies until they are older than 8 weeks of age and potentially for many months to determine if the puppy could potentially be suitable for either showing or breeding or for dog sports, it is extremely concerning that this Bill could define a puppy as a breeding dog and counted in the calculation of breeding females, well before complete health testing could be undertaken to assess their suitability to be included in a breeding program.

Section 61B: Meaning of “breeding arrangement”

10. The current wording in this section appears to serve to render an otherwise legally binding contract between the dog or cat breeder and the puppy or kitten purchaser under a ‘**breeding arrangement**’ as null and void retrospectively. DOGS NSW view is that the proposed legislation is in itself **unconscionable conduct** and without lawful justification.

³ A copy of DOGS NSW Submissions on the Licensing Consultation Paper can be located at: https://www.dogsnew.org.au/media/4318/final-dogs-nsw-feedback-dpi-consultation-paper_20211231.pdf

⁴ <https://kb.rspca.org.au/knowledge-base/what-is-a-puppy-farm/>

To add further complication is that the Bill stipulates that breeding females under a breeding arrangement housed away from a breeder's premises MUST be included in the number of breeding females a breeder is permitted. DOGS NSW view is that this will have unintended consequences to our members striving to maintain a breeding program for the preservation of its health tested purebred dogs raised in a family environment.

Section 61C: Meaning of "business code of practice"

11. This is a replication of the existing legislation under the Prevention of Cruelty to Animals Act 1979 (POCTAA). Record keeping and husbandry standards are already legislated under the existing POCTAA legislation.

Section 61D Meaning of "companion animal business"

12. This section states Boarding, Breeding and Training enterprises would be classified as a Companion Animal Business and as such they would require registration with the local council to conduct any activity. It is concerning that Rescue or Rehoming Organisations have been omitted from this section when they claim to conduct one or all of boarding and/or breeding and/or training of dogs and/or cats and often on a much larger scale than most dog and/cat breeders. The unintended consequence if this Bill was to pass is that NSW Zoning permitted uses would not allow most existing Boarding, Breeding and Training enterprises to continue. This is a major concern to DOGS NSW members.

Section 61E Meaning of "companion animal breeding business"

13. This section limits a companion animal breeding business to a minimum 3 breeding females covering both dogs and cats and any females that may be subject of a breeding arrangement. Section 61ZC stipulates a maximum number of breeding females at 10 covering both dogs and cats and any females that may be subject of a breeding arrangement. As stated previously, numbers alone do not correlate to animal welfare outcomes plus as many people keep entire females with no intent to breed from these animals, this has the potential for unintended consequences of forcing people to apply for registration when they have no reasonable chance of gaining local council approval. Further, DOGS NSW view is that limiting its purebred breeders in the number of entire females in the breeding program could severely impact the preservation of purebred dog breeds.

Division 2 Registration of companion animal business premises

Section 61F - 61N Applications to register premises plus renew registration, transfer registration, refuse applications, suspend or revoke registration, registration term and cessation.

14. DOGS NSW view is that these wide-ranging powers afforded Local Councils could not be met under this Bill. This would expand the powers of an authorised officer at a local council to be equivalent of the enforcement bodies under POCTAA in their roles of checking compliance with standards in the various codes of practice. Further, the annual inspection by a local council authorised officer, subject to a fee designed to cover the costs to the local council for the administration of this Bill, would be exorbitant. Again, DOGS NSW view is that current zoning, planning and development laws in NSW would see very few people able to successfully obtain registration of their 'business' with a local council. The very few businesses that could gain registration from their local council would not be able to fund the cost of this system. That would drive the underground unscrupulous rogue animal breeding enterprises to expand their operations to meet the demand for family pets and it would drive ethical and responsible companion animal breeders to stop breeding health tested and socialised animals altogether. The absolute discretion

to refuse to renew any registration, or to impose terms and conditions to any registration, with no provision for right of appeal, seems to be over-reach and unreasonable.

Division 3 Information about registration applications

Section 61P Registrations granted – councils must provide additional information

15. The wide-ranging information that local councils must provide to the Departmental Chief Executive is extreme and would raise costs to all local councils plus the office of the Departmental Chief Executive. This also raises concerns over who will be provided with access to the data collected?

Division 4 Source numbers

Section 61T Animal rescues, micro breeders and other sellers to apply for source numbers

16. DOGS NSW sees this requirement as a duplication of the existing system under the NSW Companion Animal Register/ Pet Registry under the Companion Animals Act 1998 (CAA). It is already legislated that when rehoming a dog or cat, either:

- a) A Breeder Identification Number,
- b) A Microchip number or
- c) A Rehoming Organisation number must be provided. The current Pet Registry allocates a Breeder Identification Number to those people that nominate as a breeder when using the system. The capability is available for local councils to identify dog and cat breeders that operate transparently and microchip their animals and fully comply with the law. DOGS NSW view is that this Bill does not address the issue of rogue companion animal breeders that do not currently adhere to the existing legislation.

Division 5 Business information register

Section 61Y Business information register – inspection by prospective purchasers of companion animals

17. DOGS NSW view is that it has serious concerns that some of this information could be misused by people with less than honourable intentions. The wide scope of the information to be made available publicly could put at risk victims of domestic abuse or violent crime. Greater protection must be provided to prevent unintended consequences of providing too much information on the location and contact information of a breeder.

Division 6 Offences

Section 61ZD Proprietors of companion animal breeding businesses must ensure dogs and cats undergo routine veterinary checks

18. The penalties in this section seem to be to be disproportionate/excessive. Mandating an annual veterinary check plus a veterinary check within 4 weeks of breeding and within 8 weeks of birthing is too rigid and is not supported scientifically.

Section 61ZE Proprietors of companion animal breeding businesses must obtain veterinary certification before breeding

18. DOGS NSW view is that this is not supported scientifically and is over-reach. While breeders will have their breeding females checked if they have concerns over any health issue, or if the female is

to have artificial insemination performed, it is not necessary for breeding females displaying good health.

Section 61ZF Proprietors of companion animal breeding businesses must not breed dogs or cats in certain circumstances

20. DOGS NSW is very concerned by the potential impact if all parts of this Section in the Bill get passed through Parliament. DOGS NSW sought the expertise of Professor Claire Wade, Chair Computational Biology and Animal Genetic at The University of Sydney. Professor Wade stated:

The following changes to companion animal breeding rules are proposed:

61ZF Proprietors of companion animal breeding businesses must not breed dogs or cats in certain circumstances.

A proprietor of a companion animal breeding business must not breed from a female dog or cat in the following circumstances—

- (a) more than twice,*
- (b) if a heritable defect is identified in a previous litter of the dog or cat,*
- (c) with a dog or cat that is related to the dog or cat by blood.*

Maximum penalty—

- (a) for a corporation—2,000 penalty units,*
- (b) for an individual—400 penalty units or imprisonment for 1 year, or both.*

Response: From Professor Clair Wade BSc (Hons) PhD UNSW. Chair of Computational Biology and Animal Genetics. Sub Dean International.

The animal welfare justifications for the proposed changes are absent or unclear.

There is no scientific support for the suggested changes.

Part (a): The rationale for the metric of two breedings is unclear or unjustified. There is no scientific evidence to suggest that negative welfare outcomes ensue from breeding an animal more than twice or even more than any particular number times if the animal is otherwise assessed as being in good health. There is no welfare or other justifiable reason why an animal assessed as fit by their veterinarian should not be bred.

*Part (b): The definition of a heritable defect is absent or unclear. For Mendelian recessive conditions, simply breeding the animal with a partner from a different genetic background will minimize the chances of re-occurrence. Indeed, the imposition of such a requirement is far more likely to generate negative genetic outcomes from a population perspective by severely restricting the effective population size of the breeding population. This will do far more genetic harm than good. Most modern companion animal breeders **actively participate** in research to provide new genetic tests for Mendelian conditions where these do not already exist and **actively apply genetic testing** to minimize or eliminate the occurrence of Mendelian inherited defects in progeny.*

For complex traits, such as orthopaedic traits or cancer, the proposed limit is unlikely to make any substantive impact on the occurrence of disorders in progeny.

Part (c): The definition of “related by blood” is unquantifiable. If this same requirement was imposed upon humans, then many cultures would be subjected to genocide.

Penalties:

The breaches would be impossible to prove and very severe. The legal battles that would ensue from attempting to enforce the breaches would place unnecessary stress on the court system and create serious mental health issues for the humans who love their animals. No part of the proposed Bill is either justifiable or desirable from any perspective, and particularly not from an animal welfare or animal genetic health perspective.

Professor Claire Wade

Chair Computational Biology and Animal Genetic

The unintended consequences of this would be catastrophic to the future of purebred dog breed preservation and the future of DOGS NSW.

Section 61ZG Proprietors of companion animal breeding businesses must ensure ratio of staff to companion animals kept on registered premises

21. DOGS NSW view that this is excessive and not sustainable. Not even the RSPCA (the Chief Inspector has quoted their ideal of approx. 1.5 staff per 20 dogs) operate with such a high ratio of staff to companion animals. Human Nursing Homes do not even operate with staffing levels that high.

Section 61ZK Proprietors of companion animal breeding businesses must comply with certain requirements to cease breeding and retire and rehome dogs and cats

22. DOGS NSW view is that the provisions in this section are not scientifically supported. Many DOGS NSW members continue to exhibit their dogs during and after their participation in a breeding program, this section serves to eliminate those dogs from active competition at DOGS NSW events. Those events bring much satisfaction to their owners socially and to the dogs as well.

Part 7A Enforcement Powers

Division 3 Powers relating to companion animal businesses

Section 69I Definitions

23. This proposes to include the enforcement bodies listed under current POCTAA legislation across to the CAA along with the existing authorised officers with the local council. The POCTAA enforcement bodies already struggle to perform their duties under POCTAA legislation, the cost to extend their powers across the CAA would be prohibitive and to the further detriment of the welfare outcomes under POCTAA.

Section 69L Registration suspended, revoked or expired – enforcement officers may enter property and seize dogs and cats

24. DOGS NSW is extremely concerned by the excessive powers to seize ALL animals from a property without any right of appeal. The unintended consequences of this would see extinction of purebred

dog breeds, mental trauma to the owners of the animals, the inability for the public to obtain a healthy well-socialised puppy raised in the home where welfare is a priority.

DOGS NSW cannot express strongly enough that this Bill if passed through Parliament would see the end of healthy, responsibly bred and raised companion pets. It is draconian and poorly drafted. It duplicates existing legislation and imposes excessive penalties and raises concerns over denial of natural justice. This Bill does not address the Puppy Farm issues, it will contribute to the problem.

We thank the Committee for the opportunity to provide feedback on the Bill. We are happy to provide any further information as may be needed and please do not hesitate to contact me on should you wish to discuss these submissions further.

We look forward to working with the Committee to develop legislation and regulations that promote visibility, accountability, and transparency for the welfare of animals.

Yours sincerely,

Lyn Brand
President DOGS NSW