

INQUIRY INTO PUPPY FARMING IN NEW SOUTH WALES

Organisation: Animal Care Australia

Date Received: 7 March 2022

6th March 2022

Select Committee – Puppy Farming in NSW

RE: Select Committee on Puppy Farming in NSW

Animal Care Australia would like to thank the Select Committee on Puppy Farming in NSW for providing us with the opportunity to provide feedback for this Inquiry, and we look forward to the opportunity to provide testimony at this Inquiry

ACA is a national incorporated association established to lobby for real animal welfare by those who keep, breed and care for animals. Our goal is to promote and encourage high standards in all interactions with the animals in our care.

ACA fully supports education initiatives and if required enforcement action for ANYBODY who keeps and breeds animals in poor welfare conditions. We remain unsure as to how the Inquiry defines a 'puppy farm'. If poor welfare defines a puppy farm then ACA is totally opposed, however if the number of animals alone defines a puppy farm, which appears to be the case in Ms. Hurst's Bill and is the overriding factor in Victoria then we have strong concerns and reservations.

Whatever a puppy farm is, or isn't, the problem centres on animal welfare.

The Companion Animals Act 1998 (CA Act), which Ms. Hurst and others seek to amend, centres on the registration and management of dogs and cats to ensure they do not cause nuisance, endanger or otherwise affect neighbourhood amenity. Councils are tasked with enforcing those duties. However, the CA Act is not animal welfare legislation and Councils are not and should not be animal welfare authorities.

Animal welfare is not about restricting numbers it is about improving conditions, promoting and funding greater education programs and the manner in which the government (authorities) deals with those who are unethically breeding.

Therefore:

- ✓ **An outcome of this Inquiry MUST BE a recognised definition of a 'puppy farm' for the purpose of clarification and any legislation moving forward.**
- ✓ **ACA does not support any facet of the Animal Justice Party's Companion Animals Amendment (Puppy Farm) Bill 2021. This amendment does not belong in the Companion Animals Act.**
- ✓ **Reducing the numbers of animals (through restrictions) incentivises unethical breeders who are determined to cash-in on the greater demand that less availability of animals creates. This is actually the main outcome of Puppy Farming Legislation - more unethical breeders.**
- ✓ **Education will help many to avoid situations of being scammed, misguided or making bad decisions when buying online or through some pet shops.**
- ✓ **The effectiveness of the legislative framework and the code of practice will continue to be diminished while any government adopts a 'One size fit all' approach – it all has to work together – and it still won't stop unethical breeders.**
- ✓ **ACA agrees the implementation of the Findings and Recommendations of the Joint Select Committee and the Companion Animals Taskforce Report has been slow and we strongly encourage the Government to continue to implement the recommendations they supported.**
- ✓ **Overall, ACA finds the Puppy Farm Taskforce was a complete misuse of public funds.**

- ✓ **The Victorian Domestic Animals Amendment Act 2017 was and is a failure. It has not achieved its stated goal of stopping puppy farms – but it has reduced the number of responsible/ethical breeders.**
- ✓ **Councils don't have difficulty opposing DA's – because the underground puppy farmers aren't applying for them.**
- ✓ **ACA's core logic is EDUCATION OVER REGULATION. The government must start legislating the requirement for inclusion of education and it's funding into all aspects of improving welfare, including animal welfare Acts and regulations.**

This submission can be publicly listed. We look forward to the opportunity of providing testimony at this Inquiry.

On behalf of the Animal Care Australia Committee,

Michael Donnelly
President, Animal Care Australia.

**Legislative Council, Select
Committee on Puppy
Farming in NSW - Inquiry
into Puppy Farming in
NSW 2022**



MARCH 7 2022

**ANIMAL CARE AUSTRALIA
STAKEHOLDER SUBMISSION**

Legislative Council, Select Committee on Puppy Farming in NSW - Inquiry into Puppy Farming in NSW 2022

Introduction:

Animal Care Australia Inc. (ACA) represents the interests of all hobbyist and pet animal keepers nationally. Our members are comprised of most major animal keeping representative bodies including those representing dogs, cats, birds, horses, small mammals, reptiles, fish and exhibited animals

Animal Care Australia would like to thank the Select Committee on Puppy Farming in NSW for providing us with the opportunity to provide feedback for this Inquiry, and we look forward to the opportunity to provide testimony at this Inquiry.

ACA fully supports education initiatives and if required enforcement action for ANYBODY who keeps and breeds animals in poor welfare conditions. We remain unsure as to how the Inquiry defines a 'puppy farm'. If poor welfare defines a puppy farm then ACA is totally opposed, however if the number of animals alone defines a puppy farm, which appears to be the case in Ms. Hurst's Bill and is the overriding factor in Victoria then we have strong concerns and reservations.

Whatever a puppy farm is, or isn't, the problem centres on animal welfare.

The Companion Animals Act 1998 (CA Act), which Ms. Hurst and others seek to amend, centres on the registration and management of dogs and cats to ensure they do not cause nuisance, endanger or otherwise affect neighbourhood amenity. Councils are tasked with enforcing those duties. However, the CA Act is not animal welfare legislation and Councils are not and should not be animal welfare authorities.

Animal welfare is not about restricting numbers it is about improving conditions, promoting and funding greater education programs and the manner in which the government (authorities) deals with those who are unethically breeding.

Clarification:

As a concerned key stakeholder whose members are under constant attack by the animal rights extremist (ARE) groups and Animal Justice Party, we emphasise that at no point during the introduction by the Animal Justice Party of their Companion Animals Amendment (Puppy Farm) Bill, within the Bill itself or within the Terms of Reference for this Inquiry has a definition of a 'puppy farm' been provided for the ability of all respondents to provide accurate and equitable feedback and/or submissions.

This seems to be a constant theme when dealing with hysteria and ideologies perpetrated by the ARE movement.

It is generally agreed no-one likes 'puppy farms' but what is a puppy farm?

The dictionary defines it as:

‘an establishment that breeds puppies for sale, typically on an intensive basis and in conditions regarded as inhumane.’

Wikipedia says:

‘A puppy mill, also known as a puppy farm, is a commercial dog breeding facility characterized by quick breeding and poor conditions.’

RSPCA Aust:

‘an intensive dog breeding facility that is operated under inadequate conditions that fail to meet the dogs’ behavioural, social and/or physiological needs’.

Animal Justice Party (AJP):

- refuse to provide a definition.

Oscars Law:

Quotes the dictionary definition as: **‘A place where puppies are bred for profit’**. Worth highlighting - ACA checked several dictionary definitions – and could not find one with the term ‘puppies bred for profit’. Oscars Law also compares the breeding of puppies to sheep and pig farming. ACA finds this remarkably irresponsible and grossly misleading.

Registered Dog Breeders:

If asked, many registered dog breeders’ responses will vary including:

- ‘people breeding for profit’
- ‘backyard breeders’
- ‘non-pure breed breeders’
- ‘those bred in poor conditions’
- ‘mass-breeders’ and many more.

With so many variations on what a puppy farm/factory MIGHT BE, **ACA places a critical level of concern on the validity of many submissions and responses to this Inquiry** – given the likelihood of such a broad ‘guesstimate’ of a puppy farm.

With the exception of the AJP and Oscars Law, there is a common and generally agreeable factor within other definitions and that is: ‘inadequate or poor welfare conditions’.

It has been shown even large facilities (with staff/volunteers) can breed dogs and cats with high welfare standards, and meet the animals behavioural, social and/or physiological needs, proving animal welfare is not about numbers.

Therefore, this places questions over the use by several NSW Members of Parliament referring to ‘intensive breeding facilities’ which by definition refers to an agricultural/livestock-based production.

ACA believes the true emphasis is being over-shadowed and lost by attempts to promote agendas rather than the reality of poor animal welfare outcomes.

Therefore, ACA’s definition is:

A ‘Puppy factory’ or ‘Unethical operator/breeder’ is any person or entity who is breeding an animal with poor welfare outcomes in defiance of the animal welfare standards.

For the purpose of this submission ACA will respond with our definition in the forefront – unless responding to a specific claim or statement, where that will be responded to directly as it was intended.

Any reference or mention of dogs/puppies also means cats/kittens as ‘Puppy Farm’ Legislation is always targeted at both animals – regardless of whether there is an issue or not.

Response to the TERMS OF REFERENCE:

(a) the provisions of the Companion Animals Amendment (Puppy Farms) Bill 2021

First and foremost, ACA does not support any facet of this Bill.

In fact, ACA strongly recommends that Parliament should remove this Bill on the grounds that it does not fit within the primary object of the Companion Animals Act 1998 – that being *‘to provide for the effective and responsible care and management of companion animals’*.

ACA argues that Local Councils should not be the enforcement authority for the breeding of dogs and cats in NSW – that is the responsibility of the Royal Society for the Prevention of Cruelty to Animals (RSPCA), the Animal Welfare League of NSW and the NSW Police.

The fact that NSW Local Councils openly oppose this Bill also deflects the responsibility of enforcing this Bill to the authorised charitable organisations and NSW Police.

The AJP’s Amendment Bill’s primary focus is on limiting breeding of any kind, limiting the numbers of animals for breeders, establishing new conditions for breeding dogs & cats, setting conditions for animal trades (companion animal breeding business, companion animal business aka shelter, pet shops, boarding & training facilities). The Bill is an amendment for the housing, keeping, breeding and selling of dogs and cats, all of which are currently regulated within the Prevention of Cruelty to Animals Act 1979 and it’s associated regulations – and continue to be included in the Draft Animal Welfare Act 2022.

Additionally, this amendment proposes to establish a form of licensing system for dog and cat breeders, again associated with and being proposed by the NSW Department of Primary Industries who do not oversee the Companion Animals Act.

This creates an obvious conflict within the two Acts. Therefore:

ACA STRONGLY recommends the Companion Animals Amendment (Puppy Farms) Bill 2021 be opposed as an amendment to the NSW Companions Animal Act 1998 due to its obvious conflict with the Draft Animal Welfare Act 2022.

Should this Inquiry and the NSW Members of Parliament feel such a conflict is not sufficient reason to oppose this Bill, ACA has provided a clause-by-clause breakdown as well as our response to the

Honourable Emma Hurst's First and Second speeches introducing the Bill to the Upper House. This can be found attached to this submission: [ACA_Response_NSW Companion Animal Amendment \(Puppy Farms\) Bill 2021](#).

This Bill effectively commercializes every dog and cat breeder. Aren't the AJP opposed to the commercialisation of dog and cat breeding?

Our document provides further explanation to the following:

- ☒ Implements requirements that are against veterinary advice – **major animal welfare issues**
- ☒ Direct import of the FAILED Victorian Legislation but with GREATER restrictions
- ☒ The claim it does not place bans on breeding is false – bans breeding female and male dogs at certain ages, requires desexing of all females (stopping breeding), bans breeding animals with inherent health issues and on breeding bloodlines (many species in Aust all come from the same imported lines) – IT BANS BREEDING
- ☒ Bans on numbers that can be kept – which result in genetic losses
- ☒ Bans on ability to keep older non-desexed animals – **forcefully requiring owners to give up loved family members**. This coincidentally fills up the shelters & rescues.
- ☒ Full shelters & rescues provides validation to the AJP's objective of banning commercial breeding of all companion animals and justifies their objective of providing additional funding for shelters (building a Shelter Industry)¹
- ☒ Consequences of full shelters – older animals more likely to euthanased.
- ☒ Legislating the entry to a property (by a Council Ranger) without a warrant
- ☒ Providing Council Rangers with greater power than the authorised charitable organisations – those actually authorised to enforce animal welfare laws
- ☒ Council Rangers are not trained enforcement officers
- ☒ Council Rangers are not qualified in animal welfare OR animal behaviour – yet will be empowered to be
- ☒ Commercialises ALL dog and cat breeders – refer back to AJP Key Objective 2
- ☒ Doesn't seek to improve any animal welfare outcomes
- ☒ Doesn't address educating the public – contrary to their own Key Objective 3
- ☒ It turns Councils into the Aust Taxation Office requiring them to investigate and determine a breeder's declaration of bankruptcy, and their ability and capacity to run a business
- ☒ It sets an illogical and impractical standard of the inability to breed animals with a person who has experienced bankruptcy
- ☒ It has no in-built levels of accountability or transparency for Local Councils – despite Councils having more powers than the charitable organisations AND the AJP's constant insistence that the charitable organisations are not being held accountable
- ☒ Restricts an animal business owner (shelter or boarding facility owner) from privately owning a breeding animal

¹ <https://animaljusticeparty.org/policieslist/animals/companion-animals/>

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- ☒ It will end all ‘preservation breeding’ effectively threatening many breeds with extinction in Australia
 - ☒ Requires the creation of a database that will effectively create the companion animal breeder’s version of the Farm Transparency Project formerly Aussie Farms – information will be available through a simple FOI request
 - ☒ This Bill opens the gate for ALL companion animals to be regulated in such a manner – it is not exclusive to just Puppy Farms – again the AJP trying to introduce its agenda and ideologies with a sleight of hand approach

Additionally, if what ACA has stated in this response is still insufficient to oppose this Bill, ACA also defers to the report by the Legislation Review Committee:

COMPANION ANIMALS AMENDMENT (PUPPY FARMS) BILL 2021

Trespasses on personal rights and liberties: s 8A(1)(b)(i) of the LRA

Real property rights, enforcement powers to enter and search

The Bill provides a number of powers to enforcement officers under the Bill, including the power to enter and search a premises and issue compliance notices to seize dogs or cats where there is a serious risk to the health or safety of a dog or cat or they are being kept in contravention of the Act. A person that does not comply with a notice issued by an enforcement officer may face a maximum penalty of 250 penalty units (\$27 500) for a corporation or 50 (\$5 500) penalty units for an individual. Similarly, section 69L enables enforcement officers to enter property and seize dogs and cats from proprietors of companion animal businesses who have had their registration suspended or revoked, or whose registration has expired. The Bill also extended existing penalties under the Act to obstructing an enforcement officer exercising their powers under the Act. The Committee notes that these provisions provide wide powers of enforcement that may impact on the property rights of individuals.

The Committee recognises the overarching aim of the provisions to prevent animal cruelty that may occur in companion animal businesses. The Committee also notes that the powers of entry cannot be used in situations when the occupier does not provide consent, unless the enforcement officer is of the opinion that it is urgently required serious risk to the health or safety of a companion animal. Enforcement officers are also required to present identification if asked by a person affected by such enforcement powers. Penalties for non-compliance with such enforcement powers are also monetary in nature, rather than terms of imprisonment, and consistent with the regulatory setting to encourage compliance of businesses. In these circumstances the Committee makes no further comment.

Privacy

The Bill includes requirements for a council to provide the Departmental Chief Executive certain information about registration applications for a companion animal business. This includes providing details such as an applicant's name and business name, tax file number or Australian business number, and contact details. The council must also provide information on any other matter as prescribed by the regulations. This may impact on the privacy of the person to whom this information pertains.

However, the Committee acknowledges that the intent of the provision is to better regulate the conduct of businesses breeding companion animals and other companion animal businesses. The Committee also understands that such information may be protected by privacy laws regarding personal information held by a department. In these circumstances, the Committee makes no further comment.

Strict liability offences

The Bill contains a number of offences for non-compliance with its provisions in regard to obligations of persons conducting a companion animal business and proprietors of a companion animal breeding business or pet shop. These offences include requirements with conditions of registration, animal health and safety, and animal restrictions on breeding. These offences carry penalties, ranging from 50 to 1000 (\$5 500 to \$110 000) penalty units or 6 months to 2-year imprisonment, or both, for an individual, and 250 to 5000 (\$27 500 to \$550 000) penalty units for a corporation.

The Committee notes that these offences amount to strict liability offences. The Committee generally comments on strict liability offences as they depart from the common law principle that *mens rea*, or the mental element, is a relevant factor in establishing liability for an offence.

The Committee acknowledges the Bill intends to toughen the NSW position on penalties for companion animal breeding. However, given the significant penalties attached to these strict liability offences, including potential imprisonment, the Committee refers the matter to the Parliament for its consideration of whether the penalties are reasonable and proportionate in the circumstances.

(b) the animal protection issues associated with puppy farming,

The foremost issue in ensuring animal welfare is being met is identifying the puppy factory.

Puppy factories are illegal and generally stay under the radar operating at an underground level. Those who do run a puppy factory are already willfully ignoring any animal welfare acts and other legislation. They will be less likely to be located in areas where neighbours, etc can easily identify and report them to authorities or local councils.

The primary driving force (agenda) for any unethical breeder is profit. This profit comes at the cost of the welfare of the animals, which is the deprivation of physiological and psychological requirements and the five freedoms, which are (supposed to be) the backbone of the animal welfare Act.

At any point in time when there is a greater demand than supply of puppies/kittens this incentivises unethical breeders to produce more animals to satisfy their desire of greater profits

Market price is the ultimate incentive. Would you pay \$4k for a puppy when you could pay \$2k for one?

Any legislation that is in place is only as good as the follow through by those engaged in enforcing it.

There appears to be a number of scenarios now where priorities are focused on the statistical outcomes rather than the skill of actually investigating. The recent 'Puppy Farm Taskforce' along with the declaration of locating 900 breeding facilities is a prime example, or perhaps the elderly couple whose dogs were all seized – paraded by photograph across the media – claimed to be of such poor

condition and yet were only seized after the announcement of the Taskforce, despite the family of the couple having attempted several times prior to get assistance from the RSPCA, the Local Council AND the dog organisation they were registered with because their parents were reportedly suffering from early onset dementia. (Refer to our response to Term of Reference (g) for more.)

In full fairness to the Animal Welfare League and RSPCA, the follow through in the Courts has in the past been extremely lacking when sentencing those who have been found guilty of extreme and abhorrent animal cruelty. Just one more aspect that incentivises unethical breeders. The penalties, fines and capacity to sentence are all there – they just seem to focus on punishing the little offences and not the ones that legitimately require it.

To simply target audits and compliance checks towards those breeders who are easily located because they are registered with a Recognised Organisation and with most members meeting the obligations under POCTAA and the Companion Animals Act is not going to locate the unethical breeders. It certainly does boost the stats, adds a few more penalty infringement fines into the coffers, but it doesn't stop the unethical breeders.

The challenge is being able to clearly and accurately identify those breeders who are doing the wrong things versus persecuting those breeders who are meeting the Code of Practice and Animal Welfare Act.

Despite what the Animal Rights Extremists want you to believe, restricting breeding, and targeting breeders with more regulations, licensing schemes, **reducing the numbers of animals is actually THE MAIN ISSUE RESULTING IN MORE PUPPY FACTORIES.**

The restrictions and regulations reduce the ability of ethical breeders to breed, maintain demand, maintain socialising, training, and developing their animals – because they simply cannot keep up, or emotionally cope with the additional burdens placed on them by Local Councils, by the demanding public, and by the evil eye of the ARE's supporters who bombard their premises, lobby those Local Councils and illegally trespass in the hopes of snapping a few pictures or a snippet of film that can be altered to denigrate the breeders.

(c) the consumer protection issues associated with the sale of dogs from puppy farms online and in pet shops,

The ability to restrict opportunities for fraudulent activity (scammers) and a means to identify those who are not meeting the requirements under the Code needs to be addressed.

The sale of companion animals should be restricted to authorised websites or other platforms where verification of the seller can be monitored, such as a direct link to the breeder's name and prefix.

The ability to advertise animals online via places such as Gumtree, Trading Post should be restricted by the Government – as it is with native animals on those platforms. Sellers found on those platforms should be investigated by the authorised organisations, as per the existence of the paid position within the RSPCA tasked with monitoring the media. Or has that position fallen by the wayside?

All responsibility is currently put on the breeders and none of it shared by the consumer, who is generally the one making uneducated bad decisions when purchasing a pet. This results in animals being surrendered into shelters or neglected and abandoned.

Consumers need to be educated on how to research their ideal breed to suite their lifestyle as well as how to source ethical responsible breeders who will give them the information and continued support with the animal they have committed to purchase. Many responsible breeders will have a fall back plan where the animal is returned to the breeder should circumstances change or it doesn't work out.

Social awareness needs to be promoted and funded. People need to be better educated. The government should be working with the recognised organisations to build the appropriate platforms for people to obtain their pets. 'Ethically bred' needs to have the same response as 'ethically sourced'. People need to be encouraged to buy from an ethical breeder and 'dob-in' an unethical breeder. The 'dob-in a litter bug' campaign allows people to report littering (accompanied by photo or film evidence) surely a similar scheme could be established.

Heavily regulating breeders will not stop consumers from making profoundly uneducated decisions that ultimately the animal suffers for. It also will not stop consumers from not researching reputable sources in which to acquire a new pet from. Consumers are easily dazzled by pretty cute pictures online and don't tend to investigate further before impulsively making a bad decision.

Education will help many to avoid situations of being scammed, misguided or making bad decisions.

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

Any welfare Act or Code of Practice (COP) should be regularly reviewed and updated – especially when issues are discovered, such as those highlighted by ACA and other stakeholders to the Department of Primary Industries. The resulting COP from the most recent review is an improvement on removing some of the ambiguities and less-welfare based requirements.

While ACA supports the COP, there is room for improvement – there should always be the intent to improve – namely recalibrating the Standards and Guidelines to be breed specific (appropriate conditions for different breeds) and having targeted situational Codes (i.e., yard dog/cat or house dog/cat or commercial).

This clear delineation will assist breeders and the enforcement agencies in maintaining the legal requirements and the confusion of whether a chihuahua needs a 1.8m fence or not.

One size does not fit all.

One version of a COP will not satisfactorily benefit the specific needs of the breeds.

The existence of an animal welfare act or any other legislation will not stop unethical breeders.

The RSPCA being provided funding for a 'Puppy Farm Taskforce' did not shut down puppy farms – it's questionable as to whether they found any actual puppy farms.

Greater sentences and the highest fines/penalties in the country will not deter those determined to ignore the laws in the first instance and they do not equate to offenders found guilty receiving the sentences.

Legislation that does not include built in requirements to monitor sentences, court orders and fines will fail.

Legislation that DOES NOT have built in educational requirements WILL fail.

One size does not fit all – it all has to work together – and it still won't stop unethical breeders.

(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 Committee made 4 findings and 34 recommendations. ACA will provide comment on the extent of the implementation of the Findings rather than becoming bogged down in responding to all 34 recommendations – noting the Government at the time did not support all recommendations, and for that matter neither does ACA.

Finding 1: The Committee finds that the NSW Companion Animal Taskforce Report continues to be a sound basis for reforming companion animal management in New South Wales, but that progress in implementing some recommendations has been slow or has not met expectations.

ACA Response: ACA agrees with the finding that some recommendations have been slow to be implemented – particularly the Pet Registry and its intent to accurately monitor and track animals and breeders. The Pet Registry is again being reviewed and again delayed 'due to technical difficulties'. This is simply no longer a logical system that was outdated before it was even implemented.

ACA would like to see the Pet Registry, the Companion Animals Act and the responsibility for all aspects merged under the responsibility of ONE government department – that being the Department of Primary Industries.

Finding 2: The Committee finds no evidence that the number of animals kept by breeders is in itself a factor which determines welfare outcomes of breeding animals

ACA response: ACA fully supports this finding. Number restrictions do not change animal welfare outcomes. Animal welfare is enhanced through education and legislation (including codes of practice) that are not ambiguous, are easily achievable by responsible pet owners, include conditions for

different breeds and are encouraged through incentivising responsible breeding and buying rather than solely concentrating on demonising breeders and the breeding of animals.

ACA supports the Finding of welfare is not about the restricting of numbers

Finding 3: The Committee finds that the timeframe for implementing the recommendations of the Companion Animals Taskforce has been much too long. The Committee further finds that progress towards digitising the Register of Companion Animals and ensuring all breeder information is captured in order for the register to function as a breeder registration system, has not met community expectations nor achieved the outcomes anticipated by the Companion Animals Taskforce report.

As per our response to Finding 1 – ACA supports this Finding.

Finding 4: The Committee finds that banning pet shop sales would result in less scrutiny of the pet industry without any reasonable expectation of improved animal welfare outcomes.

ACA response: ACA does not believe pet shops are the most suitable environment for the sale of dogs and cats. For the same reasons we do not support the sale of shelter animals from pet shops as we see no difference between the two. If given an option between the sale at pet shops or online, ACA believes pet shops are more easily regulated than online or car boot sales.

Some concerns for the sale of dogs and cats in pet shops include:

Puppies:

- Puppies go through a fear period between 8-16 weeks, and a pet shop environment is not ideal to ensure that they are not put in situations which could lead to ongoing behavioral problems such as high anxiety
- Puppies need around the clock care so leaving puppies overnight in a shop environment is not suitable
- Puppies need to be in a home environment at an early age as they need to be desensitised to new environments and to form routines
- In a pet shop environment, there is not the ability for exercise and necessary socialisation as puppies require and receive with responsible breeders
- In a pet shop environment, there is not the available space to ensure there are separate spaces for eating, toileting and sleeping. This leads to toileting and sleeping issues once they are sold and are settled into a home environment
- They don't have the required environmental enrichment
- There are no facilities that the puppies can retreat to away from the noise and attempted interactions by the public

Kittens:

- The concerns listed for puppies also apply to kittens, including separate eating facilities, establishing toileting habits, etc, which are important for kittens to ensure they feel safe and are able to be enriched
- Most pet shops do not have the facilities to house kittens in a safe manner where they can climb, explore, or hide away

Many regulated pet shops have a requirement to accept a returned animal within a stated period of time. This in itself will ultimately lead to animals being shunted around, legal concerns under Fair Trading laws could eventuate, animals will be more likely to be euthanised.

With the above in mind, ACA supports the Joint Committee's Recommendation 17:

The Committee recommends that the NSW Government reviews the Animal Welfare Code of Practice – Animals in Pet Shops to determine what needs to be strengthened, with a particular focus on:

- Animal rehoming targets for rescue and shelter-sourced dogs and cats
- Limits on the hours when animals can be displayed in stores
- No detention of dogs, cats and other prescribed mammals in stores out of hours. Dogs, cats and other prescribed mammals must not remain in the pet shop after closing time. They must be taken to a place where there is appropriate housing and provided with the opportunity to exercise and socialise, whether on the same premises or elsewhere
- Appropriate objectives for socialisation, exercise, light and space
- An upper limit on the time any animal can spend for sale in a store before it must be rehomed through another process

Recognised (Breeding) Organisations (RO's) in NSW have codes of ethics that prohibit their members to sell puppies and kittens to pet shops.

The reality is:

- people want to buy their puppies and kittens in a manner that does not suit the best interests of the animals.
- despite the above codes of ethics, some members of RO's still do sell their animals directly to pet shops.
- not everyone wants to purchase an animal from a shelter.
- the more you restrict direct (and monitorable) access for people to buy animals – the more you incentivise online sales, car boot sales and alike (less monitorable methods)

ACA supports Finding 4 with the implementation of Recommendation 4 OVER the reality of 'underground' selling

ACA agrees the implementation of the Findings and Recommendations of the Joint Select Committee and the Companion Animals Taskforce Report has been slow and we strongly encourage the Government to continue to implement the recommendations they supported.

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

What impact? Consultation has been completed. Outcomes and recommendations have yet to be announced. ACA cannot respond to this Term of Reference until said recommendations are publicly announced.

ACA does not believe a licensing scheme/system will be of any benefit, however in response to the consultation paper, and the Minister's intent to ONLY license large-scale-breeders, ACA made the following recommendations:

1. ACA does not recommend any exemptions from a fit for purpose Code of Practice (COP).
 - a. A new 'fit for purpose' Code of Practice is required to ensure appropriate compliance requirements/standards are provided that are situation and breed specific. All dogs and cats are entitled to be bred under the same welfare standards.
 - b. ACA does not support the current exemptions for working dogs. Working dogs are being bred and sold as companion animals, therefore should not be exempt.
2. Should a licensing scheme be required; the existing Register of Companion Animals should be utilised as the licensing system. ACA sees no reason to duplicate what is predominantly already in existence.

Or if,

- a. Should a licensing scheme ONLY be required for large-scale/commercial breeders, ACA recommends the following definition for determining who should be licensed:
 - i. commercial breeder means a breeder who derives the majority of their income from the breeding and sale of dogs and/or cats, and/or
 - ii. who holds 26 or more fertile dogs and/or cats. And,

b. Implement in Sch 1 of the Regs....

<https://legislation.nsw.gov.au/view/whole/html/inforce/current/sl-2012-0408#sch.1>

Replace....

Animal breeding establishment (that is, a business in the course of which dogs or cats are bred for fee or reward)

With...

Animal breeding establishment (that is, where the owner derives the majority of their income or maintains 26 or more fertile dogs/cats)

3. Pro-active Compliance Audits DO NOT include unannounced visits. Pro-active Compliance Audits are agreed to as part of a licensing agreement (such as the current Exhibitors Licenses) or made by mutual appointment with a breeder. ACA DOES NOT & WILL NOT SUPPORT random audits that are unannounced unless there is an immediate reported animal welfare concern or a warrant has been provided to access the property.

After all, doesn't every dog and cat deserve to be bred under high welfare standards?

This Inquiry can refer to ACA's response to the consultation paper: [ACA_NSW-Licensing-and-regulating-cat-and-dog-breeders](#) – attached to this submission.

ACA is developing a fit for purpose COP and will provide that to the DPI during the course of the Animal Welfare Action Plan.

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

ACA has strong reservations as to the proven existence of 'puppy farms' in NSW. (as defined by the RSPCA NSW)

As is known, in October 2020, the then Minister for Agriculture, Adam Marshall announced additional funding for the creation of a Puppy Farm Taskforce. The funding was to expand the RSPCA Inspectorate by an additional 4 inspectors.

No sooner had the ink dried on the printed media, the RSPCA altered the title and the goal of the Taskforce to the Breeders Compliance Unit. A completely different aim – that was to inspect known breeders who had recently advertised or promoted the availability of puppies.

When questioned about the change the Minister admitted to the Budget Estimates Chair that the RSPCA had indeed gone rogue.²

***The CHAIR:** I know you are shocked. Minister, last year you announced additional funding for the RSPCA to crack down on puppy factories.*

***Mr. ADAM MARSHALL:** Yes.*

***The CHAIR:** Was it your intention of the funding that the RSPCA rebadges its Breeder Compliance Unit and then go ahead and target essentially low-hanging fruit in the form of hobby and recreational breeders and then hold them to a commercial breeding standard?*

***Mr. ADAM MARSHALL:** No, Mr. Chair.*

***The CHAIR:** So the RSPCA has gone rogue again?*

***Mr. ADAM MARSHALL:** I love this. I get hammered on the left, and now it is time to get hammered on the right on the one issue. The announcement that I made late last year was, in my mind, quite clear. It was to allocate additional resources to an enforcement agency to particularly target the scourge of puppy factories because, as we all know around this table, there had been a certain increase—particularly during COVID—of these disgusting facilities establishing across the State where they were just treating animals poorly. To your question, Mr. Chair—the purpose of the task force, as far as I announced it and go under the radar of the various authorities, that was the intent.*

***The CHAIR:** But that is obviously not what is happening. How many puppy factories have actually been discovered and shut down since your announcement?*

***Mr. ADAM MARSHALL:** I would have to take that on notice, Mr. Chair. The three enforcement*

² Hansard Transcript - PORTFOLIO COMMITTEE NO. 4 – INDUSTRY - Wednesday, 3 March 2021

agencies that enforce POCTAA obviously do that work independent of government. You have probably seen the media reports of a facility in the Central West that was raided by one of the enforcement agencies and shut down, and there are other investigations afoot that I am aware of. But I would have to take that question on notice.

The CHAIR: *Is it the problem, though, that there actually is no legal definition of what a puppy factory or puppy farm is? We are actually left at the mercy of these three—well, the two approved charitable organisations [ACOs] and the police to determine what one is or what one isn't and left to them to interpret their own inspection codes willy-nilly?*

ACA supports the statement made by The Chair – that we are left to the interpretation of the ACO's to identify what a puppy farm is or is not, on a willy-nilly basis.

This is supported and enforced by the inclusion of the 'Puppy Farm Taskforce' in the RSPCA's Annual Report 2021 and the statement of having identified 900 breeding facilities.

This implies they have identified 900 'Puppy Farms' that they plan/planned to inspect.

ACA questions: Is this 900 Puppy Farms OR 900 breeders of dogs and cats?

If we were to ask Ms. Hurst from the AJP – this would be 900 Puppy Farms.

Emma Hurst added 2 comments.



Emma Hurst
11h · 🌐

Puppy farmers are saying if we outlaw puppy farming companion animals will 'cease to exist'. This has to be the most stupid [#FakeNews](#) I've ever heard. Cats and dogs won't vanish– but the intensive factory farming of them will. [#TryHarder](#)



Ms. Hurst seems determined to agree with the RSPCA that ALL breeders are indeed 'Puppy Farmers'.

This is in contradiction to the RSPCA's own definition:

'An intensive dog breeding facility that is operated under inadequate conditions that fail to meet the dogs' behavioural, social and/or physiological needs.

Puppy farms are usually large-scale commercial operations, but inadequate conditions may also exist in small volume breeding establishments which may or may not be run for profit.

Puppy farming is a major animal welfare issue in Australia. The main welfare problems associated with puppy farms include but are not limited to:

- *Extreme confinement – in some cases breeding animals may never be allowed out of their cage to exercise, play, socialise, have companionship or even to go to the toilet.*
- *Inadequate veterinary care and general care (grooming and parasite control).*
- *Unhygienic living conditions.*
- *Inadequate and overcrowded housing conditions.*
- *Frequent long-term health and/or behavioural problems in breeding dogs and puppies born in puppy farms as a result of the poor conditions they are bred in and a lack of adequate socialisation*

The Annual Report statement and the above definition either show a purposeful misdirection of the statistic of 900 – perhaps in the pursuit of obtaining continued Taskforce funding - or with 900 identified puppy farms and over twelve months of Taskforce funding, an inept ability to carry out their compliance and enforcement responsibilities?

Further to this, if 900 breeders of dogs and cats have been identified – data easily obtained by accessing the NSW Pet Registry (Office of Local Government) - why was the following reported by Mr. Scott Hansen, Director General, Department of Primary Industries during the NSW Budget Estimates?³

- The total number of animals inspected since 2020 is 4,823.
- The number of new inspections or first-time inspections was 209, with 139 revisits.
- There were 122 24Ns (written Notices of non-compliance).
- There were 47 Penalty Infringement Notices issued
- Three prosecutions were initiated.

Note: Mr. Hansen also indicated *“the anecdotal is that the PINs were largely for breaches around bedding, vaccinations, cleaning—basically, breaches of the code of practice.”*

ACA would like to highlight a significant factor in dealing with the effectiveness of managing compliance and enforcement and the impact of the ‘Puppy Farm Taskforce’:

In 2020, the RSPCA received a funding boost of **\$400,000** allocated to find, investigate, prosecute and shut down puppy farms in NSW. Just over **12 months** after that funding and out of over **4800 animals** inspected, only **122 warnings** were required, **47 actual infringements** were found, and only **3 prosecutions** were initiated!

- **A good use of public funds?**
- **An appropriate animal welfare outcome by a compliance organisation?**
- **Proof of the existence of actual puppy farms?**

In an endeavour to answer the 3 highlighted points above ACA contacted the DPI and the Ministers Office to request data relating to the Taskforce. We were advised by that we would need to make that request directly to the RSPCA.

Following several email attempts and phone calls to the RSPCA we were advised by Scott Myers, Chief Inspector that the information was not available as it was not deemed as public information.

Why not? The Taskforce was funded with taxpayers’ money. Proof of the existence of actual puppy farms would be in the public’s best interest as well as providing substantial ground to justify revisions of the breeding code and other related legislation.

Was the RSPCA trying to hide the fact they had failed to identify any real puppy farms? Or was the government trying to hide their failures? Surely if puppy farms were found, the RSPCA would be keen to highlight this outcome in an effort to convince the government of continued funding of the Taskforce.

³ Hansard transcript – Budget Estimates – Agriculture & Western NSW – Monday 1st November 2021

ACA also notes the 'Breeder Compliance Unit' née 'Puppy Farm Taskforce' has now been re-named the 'Intensive Breeding Unit' – perhaps to reflect the change in rhetoric being used by members of Parliament OR an acknowledgement that puppy farms are more difficult to identify and it's easier to locate and identify intensive breeding facilities?

ACA strongly believes the 'Puppy Farm Taskforce' was a failure in relation to its original intent. It had the wrong impact and the effect it had on real puppy farms is not known as no supportive data of the 3 potential prosecutions has been made public.

Overall, ACA finds the Puppy Farm Taskforce was a complete misuse of public funds.

(h) the impact and effectiveness the Domestic Animals Amendment (Puppy Farm and Pet Shops) Act 2017 (Vic) on puppy farming in Victoria, and the consequences for the puppy farming industry in NSW,

The Victorian Legislation is a disaster!

The introduced legislation in Victoria has seen a drastic increase in:

- ☒ unhealthy puppies & kittens at veterinary surgeries & shelters⁴
- ☒ complaints relating to scammers and non-supply of animals where deposits were paid⁵
- ☒ unregistered breeders ('puppy farms' by the very definition)
- ☒ prices skyrocketing for all breeds of puppies and kittens (pre-covid19) with exorbitant prices during Covid19.

The rise in the number of unethical breeders in Victoria resulted in an increase in the shelter numbers, shelters were then emptied out during Covid-19 only to have a vast number of animals returned once people realised the shelter animals were not actually suited for re-homing in the first place, or their lifestyle reverted and having a pet no longer suited their needs or requirements.

The Victorian Government subsequently was forced to investigate the Shelter Industry via a Taskforce as well as a separate Taskforce looking into the mortality rates within its shelters and rescues.

⁴ <https://www.smh.com.au/business/consumer-affairs/penned-in-victorians-pining-for-a-pet-drive-cruel-smuggling-trade-20200731-p55h6n.html>

⁵ <https://www.abc.net.au/news/2021-05-10/victorian-animal-clinic-dog-legal-breeders-compensation/100126684>
<https://www.9news.com.au/national/gumtree-sick-puppy-scam-victorian-womans-warning/23cec083-e2c0-4643-8edf-30c550f18859>

<https://www.theage.com.au/national/victoria/illegal-pet-sales-rise-as-lockdown-adoption-boom-clears-shelters-20210907-p58pg9.html>

The outcome – recommendations of more shelters, regulation of those shelters and greater funding to expand the Shelter Industry in Victoria. ⁶

The Victorian Government are now providing funding grants to shelters so that shelters can cope with the numbers of unethically bred animals being surrendered in Victoria.

There has been a marked decrease in:

- ☒ registered breeders
- ☒ healthy puppies and kittens
- ☒ breeding females available to other breeders for genetic diversity

With the restriction of only 10 females per property many shelters & rescues have been unable to take on additional animals — resulting in animals needing to be euthanased to maintain numbers as per permits. Despite assurances that services & organisations would be exempt - changes to local council codes have seen many 'boarding & rescue' facilities close or run on limited numbers.

In March 2021, the RSPCA Vic publicly expressed its concerns over the resurgence of puppy farms.⁷

Due to the restrictions on numbers permitted, it is being reported by pet owners/breeders that some Councils in Victoria are still advising breeders and pet owners to euthanise their excess animals when they are denied re-application of their Excess Animals permits and/or Development Applications required under Local Planning for their breeding business permit. Owners are being forced by the restrictions and Councils to surrender their animals who were part of their families for years, but now exceed the caps, to shelters to have them euthanised. This is also a result of the implementation (via the Planning Act) of animal number restrictions for non-rural zones of just five (5) animals to each property without the application to Council for animal keeping permits. Each application is treated differently subject to each individual Council.

The laws pushed by AJP and Oscar's Law in Victoria are resulting in more animals being euthanised.

In Victoria, you can seek permission to own up to 50 fertile females – NOT just the capped 10 as proposed in the NSW Bill. ACA does not want to imagine how many more dogs or cats will be euthanased under the NSW Bill.

ACA members and Recognised Organisations in Victoria have advised that the source number system does not work as unethical breeders simply opt not to register and sell their animals via other non-regulated means.

⁶ <https://agriculture.vic.gov.au/livestock-and-animals/animal-welfare-victoria/domestic-animal-businesses/shelters-and-pounds/taskforce-on-rehoming-pets?>

<https://agriculture.vic.gov.au/livestock-and-animals/animal-welfare-victoria/domestic-animals-act/codes-of-practice/code-reporting-consultation>

⁷ <https://www.3aw.com.au/concerns-over-resurgence-in-illegal-puppy-trade-in-victoria/?>

Victorian Local Councils have over-zealously introduced additional restrictions and requirements that have resulted in varying rules across different LGA's creating an unlevel playing field!

Councils have demanded exorbitant application fees and placed additional requirements (outside those required by the Victorian Domestic Animals Act) resulting in DA costs in the tens of thousands of dollars. This effectively has shut down small responsible breeders leaving ONLY the larger or commercial breeders who can afford the costs, to become established.

Councils have become so empowered they feel they do not have to justify their actions and are largely acting without accountability. The Municipal Association of Victoria opposed the introduction of the Domestic Animals Amendment Act 2017 and now sits useless to hold Councils accountable due to the built-in allowances of power and responsibility to Local Council to enforce the Act.

Breeders cannot hold more than one Domestic Animal Business (DAB) for example, commercial breeder, Boarding Facility, or kennel owner etc, as is being proposed here in NSW. Those who owned kennels or boarding facilities and also bred their own dogs from home now were unable to do both. The changes resulted in breeders who had different breeds, having to put bitches out into other homes or reduce their numbers in other ways (euthanasia or sold), or completely forgo one of the groups of dogs they owned. This has now seen a decline in not only numbers but genetic diversity especially in more vulnerable (limited numbered) breeds.

The legislation heralded that hobby breeders could keep up to 10 fertile females before needing to become a DAB. Planning Laws were then also altered which led to overlays stopping anyone from owning more than '5 animals' on a residential property so those breeders that also had cats or other animals can no longer have more than a combined total of 5 species. Again, resulting in the forced displacement of many animals and the demise of specialised 'preservation' breeding programs.

Planning changes brought in after the DAA now disallow breeding on a residential property unless there are no more than 2 animals registered. When there is a change of land use applied, most councils are not approving them. The requirements of this change of land use are the same as those used for an Excess Animal Permit but to get them approved by a Council there is a hefty price tag – councils profiteering off the breeding of dogs and cats.

The additional affect of this is a breeder can own 2 dogs and continuously breed (or over breed) them and they get away with that, but if you are a breeder trying to maintain genetic diversity and keep your older animals to live out their days as the family members that they are, then these are the people being prevented from continuing.

So-called 'backyard breeders' are being given unvetted freedom to breed with no oversight which is not welfare based. This same outcome applies to the proposed Bill in NSW.

10 fertile females is the magic number in the Act, and yet you can own as many males as you want. How is this welfare based? While 10 may seem like a large number if a breeder keeps different breeds, they are now only able to keep a few females of each breed which reduces genetic diversity. During the review stages of the DAA, the Chief veterinary officer was provided with this example. His

response to the highlighted problem was “*euthanise the dogs retiring from the breeding program*”. Again, how is this improving animal welfare?

Foster carers have also been restricted under these changes. If a foster carer has a dog on their property that may be pregnant, they cannot whelp the litter without a change of land use, and this sees these animals having to whelp their puppies in a shelter which is not an ideal scenario for both the mothers and the pups. This not only reduces the number of foster homes available, but also the expertise in the fostering system.

One of the incentives for purchasing a dog from a registered breeder is the requirement for that breeder to take back puppies from a buyer who has changed their mind etc. The current cap on numbers for properties and/or breeders limits the breeders taking the dogs back, particularly when they reach their allowable limit. There is no mechanism for special circumstances, particularly with Local Councils. This contributes to the shelter problem as the breeder could face fines if they are found to have extra dogs on their property even though they would be doing so to re-habilitate and re-home the animal

Those that were doing the wrong thing in regard to the care and welfare of their dogs are still doing so. This legislation has done nothing to ‘stop puppy farming’. Those that were breeding in poor conditions are still breeding in poor conditions – and more so. The legislation has targeted those breeders that were already transparent and traceable.

Those that want to breed for profit are still doing so, they are just advertising in other places or using fraudulent source numbers as no one is actually monitoring them as they register with fake addresses etc.

It is only those that are bound by their organisations’ code of ethics and that are required to register litters and are held accountable if found to be in the wrong. They are the only people that the DAA has impacted. More and more Victoria has seen an increase in dogs that now carry \$10k price tags, as the reputable breeders are throwing their hands in the air and walking away. It is just too hard to breed dogs in Victoria and maintain genetic variance, responsibly bred and socially interactable dogs (and cats) and still be able to keep your oldies till their days are over. Just because they are no longer breeding doesn’t suddenly make them any less wanted or loved. But under the DAA and the proposed Bill in NSW – the AJP and Oscar Law are trying to legislate differently. They are trying to covertly see the demise of our dogs and cats under the banner of ‘animal protection’, aka animal rights. This has no connection to animal welfare.

(i) the challenges faced by local councils in respect to development applications for puppy farms,

As ACA is not a Local Council, we can only respond on a level of our members interactions with Councils during their DA application process.

The feedback we constantly receive is that Councils are well and truly in control of this process. Controlling the exorbitant fees and charges (many in the \$10ks) to dictating the number of carparking

and public toilets required on a residential property for a breeder with as little as half a dozen dogs. Councils are over-zealous, and inept at knowing the correct requirements suitable to individual breeds.

Residents are currently required to register breeding of dogs with Councils. Councils have Animal Management Plans that restrict and cap numbers of dogs. Whether this is being enforced by Council is a matter that should be addressed by all political parties.

Any suggestion that Councils are unable to reject DA's is simply unfounded and frankly mindboggling. Remembering Ms. Hurst's own words during her Second speech to Parliament: *"We do not even know how many puppy farms there are in New South Wales because the industry is so underground and poorly regulated. But we do know that the size and scale of puppy farming in New South Wales has increased since 2017."*

If this is a factual statement Councils wouldn't be having difficulty opposing the DA's – because the underground puppy farmers aren't applying for them.

The larger breeders, trying to do the right thing and apply for them are being made by Council to jump through hoops to be successful. Councils are refusing DA's where they don't feel the facility would fit within their Shire. Those approved are KNOWN TO COUNCIL AND THE AUTHORISED ENFORCEMENT ORGANISATIONS. This means they are able to be audited regularly. Complaints by neighbours are able to be acted upon as there is an existing DA with grounds for Councils to enact.

Given that each Local Council falls under the Office of Local Government, the details of how many DA's are being submitted for breeding facilities would be able to be obtained via the Minister for that Portfolio.

From studying media reports etc, ACA can clearly see one major sticking point for Councils when ever a DA is lodged – that is the constant over-zealous and invasive inundation by animal rights extremists on the Council meetings, their Offices, the residents' private properties and so on. If there truly is a headache for Councils you only have to look at the ARE's – nearly all of whom are not even Council residents contributing to that Council shire. Oscars Law are particularly renowned for encouraging and perpetrating this behaviour.

(j) legislative and other measures that could be implemented to stop or reduce puppy farming in NSW,

More often than not, the cost of an animal will provide a buyer with enough incentive to not enquire as to the conditions of where the animal has been bred.

Social media has made it easier to find animals, to buy animals and of course to sell animals.

Many people will quickly imagine that terrible picture or scene in their minds of a puppy farm – but most are unable to identify or even know what to look for as a sign of dealing with a responsible/ ethical breeder.

The concept of ONLY providing animals through shelters may seem idyllic because theoretically it saves the lives of those unwanted, unloved animals – the reality is very different – and this Inquiry

really shouldn't get hoodwinked by the ideological, beautiful fantasies of the Animal Justice Party or Oscars Law.

The reality is most people looking for a new dog or cat – especially those with young families, want an animal that will grow with their family. They want investment into the animal's full lifespan – not an animal that might only be with them for a few years. To some that may seem greedy or selfish – but it isn't. It's about the enjoyment of watching their children learn to love an animal, its ensuring that little bundle of fur learns how to fit into their family without the pre-conditioned baggage that might come one with an animal that has had one or potentially more than one previous owner.

The reality is other people will want to be able to walk straight into a venue and pick their animal on the spot. While ACA doesn't support impulse buying – we recognise it is a common factor in buyers' behaviour.

ACA's core logic is EDUCATION OVER REGULATION.

We need to start legislating a core requirement of education into our animal welfare Acts and regulations.

Many new dog and cat owners are oblivious to the fact they are required to register their animals with Council, or to record the microchips of their newly bred animals. Simply speak to any AWL or RSPCA inspector and they will tell you that an average resident, who is not a member of a Recognised (breeding) Organisation, has no idea there is a breeding code of practice, or what their current responsibilities are under POCTAA.

Many animal owners are unaware they can return their animals to a registered breeder and in most cases the pet shop they purchased it from.

Buyers need to be educated on responsible breeding – to recognise an ethical breeder and on responsible buying to realise their careful, researched approach will more likely result in a life-time family member and not one that sets them back or comes with poor health and no social interaction training.

ETHICALLY BRED and SOURCED needs to be the new catch cry.

Also, at a government level there needs to be an increase in monitoring of Office of Local Government Annual Permit requirements for non desexed dogs/cats over the age of four months⁸.

Legislation and measures need to be targeted towards locating and identifying those people who are breeding without being registered with a Recognised Organisation and who have no regard to comply with a Breeding COP. Targeting registered breeders is not going to identify those most likely to be unethically breeding.

The introduction of a breeder license scheme is only as successful as the uptake of breeders. If the only way to locate breeders is via a license system, the only people who are going to be identified are

⁸ <https://www.olg.nsw.gov.au/councils/responsible-pet-ownership/nsw-pet-registry/annual-permits/#:~:text=Pet%20owners%20can%20pay%20for,by%20four%20months%20of%20age>

those doing the right thing. Those who are breeding in defiance of the COP requirements will always avoid the 'net' being cast to locate them.

Audits or Compliance checks are only effective on the breeders that can be located and identified.

The Government should consider introducing a rating system for larger scale/commercial breeders similar to that used during audits and compliance checks for Exhibited License holders. This ensures those who are more intensively breeding are doing so to set welfare standards and regulations.

Establishing a star-rating for breeders who are ethically breeding and promoting that to the public may assist in forcing other breeders to improve their welfare standards or risk losing buyers. There are many pros and cons with this, particularly with establishing who performs the audits and issues the rating – but that could be resolved with further consultation.

Summary Conclusion:

- ✓ **An outcome of this Inquiry MUST BE a recognised definition of a 'puppy farm' for the purpose of clarification and any legislation moving forward.**
- ✓ **ACA does not support any facet of the Animal Justice Party's Companion Animals Amendment (Puppy Farm) Bill 2021.**
- ✓ **Reducing the numbers of animals (through restrictions) incentivises unethical breeders who are determined to cash-in on the greater demand that less availability of animals creates. This is actually the main outcome of Puppy Farming Legislation - more unethical breeders.**
- ✓ **Education will help many to avoid situations of being scammed, misguided or making bad decisions when buying online or through some pet shops.**
- ✓ **The effectiveness of the legislative framework and the code of practice will continue to be diminished while any government adopts a 'One size fit all' approach – it all has to work together – and it still won't stop unethical breeders.**
- ✓ **ACA agrees the implementation of the Findings and Recommendations of the Joint Select Committee and the Companion Animals Taskforce Report has been slow and we strongly encourage the Government to continue to implement the recommendations they supported.**
- ✓ **Overall, ACA finds the Puppy Farm Taskforce was a complete misuse of public funds.**
- ✓ **The Victorian Domestic Animals Amendment Act 2017 was and is a failure. It has not achieved its stated goal of stopping puppy farms – but it has reduced the number of responsible/ethical breeders.**
- ✓ **Councils don't have difficulty opposing DA's – because the underground puppy farmers aren't applying for them.**
- ✓ **ACA's core logic is EDUCATION OVER REGULATION. The government must start legislating the requirement for inclusion of education and it's funding into all aspects of improving welfare, including animal welfare Acts and regulations.**

This submission can be publicly listed.

On behalf of the Animal Care Australia Committee,



Michael Donnelly
President
Animal Care Australia

For further information and recommendations on how to minimize unethically bred dogs and cats please refer to our 'Puppy Factory' document on our website:

https://www.animalcareaustralia.org.au/wp-content/uploads/2022/03/ACA_PuppyFarming.pdf

NSW Companion Animal Amendment (Puppy Farms) Bill 2021



MARCH 5 2021

**ANIMAL CARE AUSTRALIA
STAKEHOLDER SUBMISSION**



NSW Companion Animal Amendment (Puppy Farms) Bill 2021

Introduction:

An open statement to all members of NSW Parliament.

Animal Care Australia (ACA) President, Michael Donnelly: I hereby declare the right of reply to the NSW Animal Justice Party's (AJP) Companion Animal Amendment (Puppy Farm) Bill 2021 and the misleading Parliamentary reading by the Hon Emma Hurst on 13th October 2021.

It is truly hard to believe that in 2021 any person could claim puppy farming is legal in New South Wales (NSW), unless of course, they refuse to define what a puppy farm is, for the purpose of their claim.

To this end, one can only assume Ms Hurst is selectively choosing to act on part of the common definition of a puppy farm – that being *“an establishment that breeds puppies for sale, typically on an intensive basis and in conditions regarded as inhumane.”*

To attempt to understand Ms Hurst's statement we need to examine that definition, and split it into two sections. The first being, *‘an intensive establishment’* meaning one with many dogs involved. The second being, *‘in conditions regarded as inhumane’*.

Ms Hurst's statement to Parliament is contradictory to itself. She states, *“Female dogs are forced to pump out litter after litter in small, barren pens until their bodies can no longer cope. Because of the lack of exercise and the pressure on their bodies to produce repeat litters, many dogs develop serious, painful health conditions. Many puppies born in these farms also suffer from behavioural and medical issues as a result of the terrible conditions.”*

To boldly claim that it is legal to mistreat any animal in such a way is misleading Parliament. The legislation and requirements of the Prevention Of Cruelty To Animals Act 1979, along with the recently revised (Aug 2021) NSW Breeding of Dogs & Cats Code of Practice, clearly outlines mandatory Standards, cage/kennel sizing, food and water requirements, mandatory litter numbers per year, as well as the penalties and sentencing that can be brought against a person for failure to meet any of the standards. (see Appendix 1)

The ONLY truth stated by Ms Hurst is the legality of keeping multiple animals on a property. Animal welfare IS NOT about numbers – animal welfare is about the conditions and health in which an animal is kept.

For this reason ACA defines a ‘puppy factory or more accurately an unethical breeder as any person who is breeding an animal with poor welfare outcomes in defiance of the animal welfare standards.’

Ms Hurst continues with the horrible story of a dog named ‘Strawberry’. It seems Ms Hurst's researchers or speech writer need to be more careful when attempting to highlight the appalling outcome of not having sufficient legal recourse to adequately deal with acts of animal cruelty. While Strawberry's case is the subject of an investigation by the RSPCA and has also been the subject of the Western Australian Parliament, there are some glaring issues.

If Strawberry died in northern NSW when she was just 10 months old, how was it possible for her to have been forced into pregnancy when she was just one year old? The remainder of

Strawberry's story highlights the need for the RSPCA investigation and until those FACTS are released, ACA will not speculate on the assumptions made by Ms Hurst or her 'whistle blower'.

Whether the existing legislation has loopholes or gaps that prevent the RSPCA or AWL to bring cases such as those described in Strawberry's story to a full outcome, is a matter currently being addressed by the NSW Animal Welfare Action Plan.

Ms Hurst then repeats her claim: *"Right now it is legal in New South Wales to set up a puppy farm with 600 dogs living in tiny pens and to force them to give birth to as many litters as their bodies can cope with until they die. There are no caps on the number of dogs, no requirements for minimum staffing and no caps on the number of litters any one dog can be forced to endure."*

Again – complete stretch and fabrication of the facts! The fact is 'tiny pens and no caps on the number of litters' are legislated by the NSW Breeding Code of Practice and breaches can be prosecuted. It is NOT legal to force a dog to endure those conditions.

ACA does not comprehend why a facility/breeder would keep 600 dogs, especially not without supporting staff/volunteers, but should such a facility exist, then any concern should be focused on the conditions and social behavioural aspects of the animals being applied by the facility. Facilities such as those being described by Ms Hurst are also subject to Council DA approval and so is the residential breeding of dogs. Residents are currently required to register with Councils. Councils have Animal Management Plans that restrict and cap numbers of dogs. Whether this is being enforced by Council is a matter that should be addressed by all political parties.

A facility with 600 dogs would certainly be difficult to hide, so it is therefore very easy for Council or compliance organisations to regulate and ensure they are abiding by the legislations.

"We do not even know how many puppy farms there are in New South Wales because the industry is so underground and poorly regulated. But we do know that the size and scale of puppy farming in New South Wales has increased since 2017. "

Do we? How do we know this? If we do not how many puppy farms there are, and if they are so underground, HOW do we know they are increasing? Where is this documented proof of existence? Those that are underground are operating illegally, as they are not registered with Councils, or recording microchip numbers into pet registries, and are using scammed/stolen Breeder Identification Numbers to illegally sell the animals.

"if a dog is no longer considered profitable, they can be killed."

In fact Councils in Victoria are currently advising that is exactly what breeders and pet owners do with their excess animals when they are denied re-application of their Excess Animals permits and/or Development Applications required under Local Planning for their breeding business permit. Owners are being forced by the restrictions and Councils to surrender their animals to shelters to have them euthanised. The Victorian Government has had to establish a Taskforce to ensure the correct numbers of kill rates is being reported, as well as they are now providing funding grants to shelters so that shelters can cope with the numbers of unethically bred animals being surrendered in Victoria. **The laws pushed by AJP and Oscar's Law in Victoria are resulting in animals being euthanised.**

In Victoria, you can seek permission to own up to 50 fertile females – NOT just the capped 10 as proposed in this Bill. ACA does not want to imagine how many more dogs or cats will euthanised under this Bill.

Looking at more statements:

"Councils do not want to approve development applications for these mega puppy farms"

News & media constantly reports Council rejections and approvals – they are not hamstrung. Council approvals are not hindered by the legislation.

"there were reports of puppy farmers moving over the border in caravans to set up shop... The town of Moama has had multiple development applications for mass breeding facilities over the past year, including for a 300-plus dog facility approved a few months ago."

The Great Gypsy drive across the border! The emphasis here is 'Council approved'. DA's approved. Councils needs were satisfied. The existence of a 300 dog facility is known by Council and the compliance organisations. It can easily be audited. It is better that it is approved and regulated than the 300 dogs be scattered across multiple properties, unknown and unable to be regularly inspected.

Additionally, is Ms Hurst's statements about Councils based solely on one – Moama?

"Even for someone who does their due diligence, it can be very hard to spot a puppy farm because these businesses are set up to confuse and deceive the public about where their puppies are coming from"

The first full truthful statement from Ms Hurst!

However this provides justification for **EDUCATION over REGULATION**. Government should be educating the public on what to look for. Our schools should be educating the future puppy and kitten owners. If people didn't fall for the scammers, there would be less ability to scam.

"I have even been told that many puppy farm operators are not paying taxes"

An ATO matter – not a Companion Animals Act matter!

"At the end of the day, adopting from rescues, shelters and pounds is the truly safe and ethical option when it comes to finding a companion animal.." followed by "... puppy farm industry contributes to the oversupply of companion animals, many of whom end up in our already overcrowded pounds."

So which is it Ms Hurst? Are the animals in our shelters and pounds the ethical option or are they the deplorable, gaunt, unhealthy, unethically bred problem of NSW? Are you stating it is ethical to obtain an unethically bred animal – simply because it's not from a breeder or a pet shop?

"Like the Victorian model, this bill will not seek to introduce a definition of a "puppy farm" or introduce any bans on breeding per se... "

Why not? That is what the Bill is about isn't it? It is called a Puppy Farm Bill!

No bans? Yet that is EXACTLY what it does. It bans the breeding of a fertile female beyond 2 litters. It bans the breeding of a male dog beyond 6 years of age. It bans the breeding of a fertile female by mandating desexing. **IT BANS BREEDING!**

"Breeding businesses will need to register, as well as pet shops and animal training, boarding and rearing facilities."

Why, what will that achieve? Why do boarding facilities have to be put in the same category as breeding facilities? Isn't this simply an attack on any business that involves animals in general?

“The reason for requiring all companion animal businesses to register with their council is that we do not want puppy and kitten farmers to be able to dodge these new regulations by masquerading as other animal businesses”.

All dog/cat breeders are already required to register with Councils! Those who operate under the radar will continue to dodge regulations regardless.

“To cover the cost of these inspections, Councils are able to charge these businesses an annual fee for registration”

Registration fees already exist. What Ms Hurst fails to acknowledge are the additional fees to be charged by Councils for those annual inspections and for any additional DA requirements to be met. It is simple revenue raising. Responsible breeders will not afford the additional fees and unethical breeders will continue breeding animals at inflated prices, due to the increased demand of reduced responsible breeders.

“It goes without saying that anyone who has committed such an offence should not be entrusted with the care of any further animals, let alone run a business with animals, which right now is still allowed to happen. Councils also have the discretion to refuse applications...”

Wait! Didn't Ms Hurst previously claim Councils are hamstrung – unable to reject applications? Now they can?

“... if the applicant has previously declared they are bankrupt or been subject to liquidation, is not in a financial position to meet the expenses of caring for the animals, or is otherwise deemed not to be a fit and proper person to run a companion animal breeding business.”

Now Council are financial experts? What aspect of having been bankrupt in a business equates to being able to provide appropriate welfare and care for keeping and breeding animals? Someone failed at building a successful construction business and that means they cannot breed a couple of dogs?

What is the definition of a fit and proper person? If a person has been charged with an animal cruelty offence, what level of cruelty is going to be applied?

A person may have pleaded guilty to a minor charge to avoid the high costs of legal fees and/or shelter fees. They can be hit with \$10,000's of holding fees for animals prior to their day in court. Often it is easier to plead out and pay smaller penalties than fight to prove your innocence.

Does this make them an unfit and improper person? Once guilty – always guilty?

“What is the problem with having a 600-plus dog breeding facility, as long as their basic welfare needs are met?” My answer is this: You simply cannot give an animal a life worth living when she is locked in a barren commercial facility and treated like a breeding machine..”

Already dealt with all these fake statements. 1 or 600 animals. If their needs are met, the standards are high and the animals are well cared for the **numbers do not matter – the welfare does!** There seems to be a regular theme of despair here. Let's grab your heart strings in the hope they'll over rule your brain!

“Second, we do not want to see dishonest operators using these contractual arrangements to get around the 10 breeding animal cap imposed by the bill by farming out animals to third parties and bringing them back on site for breeding. Unfortunately, we are already seeing this happen in Victoria in response to its 2017 puppy farm laws.”

Wait! Is that an admission the Victorian legislation isn't working? Is Ms Hurst admitting the unscrupulous WILL and ARE finding a way around the laws?

"In developing this provision we consulted with experts, who advised that any more than two litters could put the welfare of the animal at risk, which is why we have sought to impose this cap"

Who are those experts? There is plenty of evidence that suggests more than 2 litters is healthy for dogs and cats. Some evidence even suggests some breeds of dogs benefit from having multiple breeds in succession while others are better off being delayed until after they are 2-3 years of age. So-called experts can be found to prove any argument! So who did Ms Hurst consult?

"All retired animals must be microchipped, desexed and either kept as companions or rehomed"

Ms Hurst forgot euthanised, because that will be the likely result. This is also where responsible ethical breeders differ and will be affected. They keep their elderly and retired animals until they pass. Ms Hurst is forcing responsible breeders to choose between keeping their pet or risking their lives by undergoing an unnecessary and non-supported desexing procedure. Most vets do not support the desexing an older animal due to the high risks associated. In addition how does this stop puppy farms? Remember, according to Ms Hurst they are unscrupulous, unregulated and underground!

"The bill will require there to be one staff member at the premises for every five animals kept on site."

Not only is this unrealistic, especially given the staff MUST be available at ALL times. Isn't this commercialising animal breeding? The very thing Ms Hurst wants stopped? The requirement to have staff, will raise the costs of breeding. This will raise the costs of puppies & kittens, which will raise the incentive for unscrupulous/unethical breeders to produce MORE animals underground so as to profit from the increased values. Remember Victoria during the Covid pandemic – the cost of some puppies (usually valued between \$3-\$5k) soared to \$10k-\$12k – why? Lower supply = higher individual value = higher greed value for unethical breeders = more unethical breeders!

"the bill will prevent pet shops from selling dogs or cats, except from a rehoming organisation,"

There are multiple reasons why animals are in shelters and requiring rehoming. Most of which are due to poor behavioural concerns and poor health. ACA cannot see how or why it is not appropriate for a dog or cat to be available via a pet shop and YET it is okay for a rescue animal to be sold via a pet shop? Aren't the reasons the same? The issue with Pet Shops being made adoption centres to rehome shelter animals is the same as Rescues rehoming animals. None of the people are experienced in animal behaviour to be able to confidently match people to animals. Especially animals that have trauma in their history. A pet shop attendant is not going to have adequate time nor the qualifications to understand a particular animals personality and trauma history to ensure that not only the animal, but the potential adopters of that animal are all afforded safety. This is a recipe for disaster, and the animal will suffer more from it if not pay the ultimate price with its life for inadvertently harming another animal or person. Isn't the added burden of selling a behaviourally challenged animal MORE of a reason to NOT be placed in a pet shop?

"As another layer of protection, if the council or enforcement agencies receive a complaint about an animal associated with a certain source number, they will be able to easily track down the location and check to make sure they are not a backyard breeder or illegal puppy farm. It provides a strong traceability regime for all animals sold online"

Who in Council is going to do all of this ‘tracking down’? Councils barely manage the Companion Animal Registry as it is, let alone all this extra work. Remember, when tracking, the tracker will be inspecting the address of the rightful owner of the Source number – you know, the person who’s number has been copied/falsified by the scammer! They won’t be tracking the scammer unless they personally attempt to purchase an animal and then agree to meet that scammer in real life! Surely you can identify the flaw here?

Ms Hurst continues to cover how her Bill will assist the compliance organisations. If that is true, why are both the RSPCA and Animal Welfare League opposed to her Bill?

Throughout her speech Ms Hurst fails to remedy solutions into improving animal welfare and/or raising the bar in welfare standards. Highlighting her true agenda - the restriction of animals, leading to the reduction of animals kept by everyone and NOT at all about animal welfare.

Ms Hurst fails to remedy solutions in implementing education for the public in responsible pet ownership and how to responsibly source a pet and understanding the potential traps of scammers and unethical breeders therefore failing to remedy solutions into online animal scam operations. Without education these scams will continue to evolve.

In fact Ms Hurst demonstrates a complete lack of knowledge, understanding, experience and compassion when it comes to the breeding of dogs and cats allowing her ideological beliefs to skew and recognise the real issues behind unethical breeding.

Ms Hurst has failed to consult with the one source of information that could have assisted in improving policies that would reduce the prevalence of unethical breeding – the dog and cat Associations and key stakeholders such as Animal Care Australia - those who are qualified, experienced and do hold animal welfare and their practices to the highest standard.

Finally, I move that all members of Parliament oppose this Bill and I ask that you refer to Animal Care Australia when drafting any puppy farm policies or amendments.

This document details ACA’s concerns with a breakdown of the clauses that achieve nothing more than encourage the elimination of dog and cat breeding in NSW.

Approved by the ACA Committee: 1st November 2021

Schedule 1 [1] – Amendment insertions: (pg 2)

Omission:

- **Puppy farm** - despite this Bill being designed to end puppy farms it omits to define exactly what it is that is meant to be ending! It is a cop-out for the AJP to claim they won't define a puppy farm when they are happy to label large-scale breeders as puppy farms in their propaganda.

ACA defines a *puppy factory* or more accurately an *unethical breeder* as any person who is breeding an animal with poor welfare outcomes in defiance of the animal welfare standards

Proposed clauses:

Schedule 1 [1] (b) inserts proposed Division 2, which contains provisions for the registration of companion animal business premises. Proposed Division 2—

- (i) the registration of premises, or to refuse the application or suspend or revoke the registration on discretionary or mandatory grounds (proposed sections 61I–61L), and
- (ii) enables a council to grant an application to register premises or to renew or transfer the registration of premises, or to refuse the application or suspend or revoke the registration on discretionary or mandatory grounds (proposed sections 61I–61L), and
- (iii) enables a court to suspend or revoke the registration of premises or refer the matter to council for determination (proposed section 61M)

These three sub-clauses reflect the same as the Victorian legislation. In Victoria this resulted in the implementation (via the Planning Act) of animal number restrictions for non-rural zones of just five (5) animals to each property without the application to Council for animal keeping permits. Each application is treated differently subject to each individual Council and has even resulted in some Council Rangers advising their residents that animals who were part of their families for years, but now exceed the cap of 5 must be surrendered to Council or euthanised. NB: Council pounds were already overloaded and the likely result was euthanasia at the Pound – especially for older animals unable to be re-homed

Schedule 1 [1] (d) inserts proposed Division 4, which contains provisions requiring the Departmental Chief Executive to issue source numbers to companion animal businesses and enabling animal rescues, microbreeders and other sellers to apply to the Departmental Chief Executive to be issued source numbers (proposed sections 61S–61V), and

ACA members and Associations in Victoria have advised that the source number system does not work as breeders simply opt not to register and sell their animals via other non-regulated means

Schedule 1 [2] (d) enables enforcement officers to enter property and seize dogs and cats from proprietors of companion animal businesses who have had their registration suspended or revoked, or whose registration has expired (proposed section 69L), and

- **Entering of a property without a warrant should not be legislated.**
- **The deregistering of a proprietor being determined by a Local Council is ludicrous. Council and their Rangers are not animal welfare/behaviour experts. The seizure of animals without any welfare concerns also should not be legislated and should ONLY occur when there is:**
 - **an obvious or apparent welfare concern (ie cruelty)**
 - **a determination made by a Court**

Part 6A Regulation of companion animal businesses - 61A – Definitions:

61A (1) *microbreeder*: means a person who—

- (a) carries out the breeding of dogs or cats for sale, and
- (b) has, at any one time, no more than 2 fertile female dogs or 2 fertile female cats.

This definition is contradicted and/or superseded at the first point of breeding by 61 A (2) (3) *For the purposes of this Part, a companion animal breeding business has a cat or dog, or a cat or dog is a cat or dog of a companion animal breeding business, if the proprietor of the business keeps the cat or dog for the purposes of, or in connection with, breeding.*

ACA's interpretation of this clause is that any animal held with even as much as an intent to breed, regardless of it's age or fertility removes the microbreeder status and implements a companion animal business status. This negates the microbreeder the moment they do not sell or surrender all progeny, regardless of any intent to desex one of the elder fertile females.

61A (2) For the purposes of this Part—

- (a) a female dog or cat and the litter of that dog or cat are taken to be equivalent to 1 adult dog or cat, respectively, if the offspring in the litter are—
 - (i) with the dog or cat, and
 - (ii) under 8 weeks of age, and

It is against veterinary and animal welfare standards to separate a kitten from the queen prior to 10 weeks of age, and 8 weeks only applies to some breeds of dogs – not all breeds. **This requirement will result in major animal welfare issues.**

61 B Meaning of a breeding arrangement

- **This entire section falls within commercial agreements/contracts and is protected under Fair Trading laws – it should not be legislated in this Act.**
- **Despite the above point, should this be enacted:**
 - **there is no provision provided for accurately determining a market value,**
 - **the moment a payment of any nature is made, the arrangement converts to Fair Trading laws, and,**

- **a private contract is between two agreeing parties and should not be determined by the State.**

61 B (4) Despite another provision of this section, a breeding arrangement is terminated and the person who entered the arrangement may keep the dog or cat without making a payment of the market price of the dog or cat if—

- (a) following a veterinary practitioner's assessment of the dog or cat, the dog or cat is found unsuitable for breeding for reasons other than that the dog or cat is
 - (i) under 12 months of age, or
 - (ii) not sufficiently physically mature for the purposes of breeding, or

This provision is something that would be agreed upon within a breeding contract/arrangement. However if the animal was purchased for the purpose of breeding then:

- a) why would the buyer want to keep the animal?**
- b) what would happen to the animal if they did keep an animal that could not be bred?**
- c) most importantly, isn't this encouraging the likelihood of more surrendered or abandoned animals?**

61 C - Meaning of a business code of practice

- (1) (d) a business code of practice made by the Departmental Chief Executive and published in the Gazette.
- (2) A business code of practice made by the Departmental Chief Executive may specify standards for the following—
 - (a) the keeping, treatment, handling and care of companion animals,
 - (b) the facilities, equipment and conditions at registered premises,
 - (c) other practices or procedures to be adopted.
- (3) A business code of practice made by the Departmental Chief Executive may apply, adopt or incorporate, with or without modification, standards, rules, codes, specifications or methods published by an authority or body.

ACA holds great concern with both of these clauses:

- **61 C (1) already identifies the existing codes of practice that adequately cover the breeding of animals and their sale by individuals, the sale of animals in pet shops and the standards for boarding facilities.**
- **61 C (1)(d) & (2) ACA questions the need for a fourth code of practice? What would this be required to achieve?**
- **61 C (3) has a strong implication that would allow for the implementation of further codes of practice or modifications to be made to codes of practice WITHOUT key stakeholder consultation or WITH the influence of animal rights ideologies simply on the basis those ideologies had been published. There is no measure of evaluation of said methods.**

61D Meaning of "companion animal business"

- (c) an enterprise that rears or keeps dogs or cats for sale, or for profit or a fee, or in exchange for a service,

- Does this include the RSPCA, Animal Welfare League, local pounds, shelters, & veterinarians?
- Who will be responsible for ensuring their compliance?
- Who will authorise their annual registration?
- If Local Council – what is the likelihood of Council EVER rejecting their registration, especially their own pounds/shelters?
- Is that not a conflict of interest?

61 D (d) an enterprise that trains or boards dogs or cats for profit

- How or why does the training or boarding of dogs and cats warrant the inclusion into a 'breeding restriction' amendment?
- This is barreling anything to do with the profiteering from companion animals with no justification. Boarding facilities already have codes they must comply with that ensure welfare standards are met.
- What does this achieve other than appeasing the key objectives of the Animal Justice Party, that is, restricting any person who profits from animals, in any manner, ie: exchange of money for goods or services, totally ignorant of whether any true profit is made.
- Charging for services related to companion animals or involving companion animals is not illegal. It is unreasonable to expect people to work for free, just because they work with animals.

61F Applications to register premises

- (1) A person **may** apply to a council to register premises within the area of that council as premises on which a companion animal business is to be conducted.
- (2) The application must be made—
 - (a) in a form specified by the council, and
 - (b) accompanied by a fee fixed by the council, and
 - (c) in compliance with requirements that may be prescribed by the regulations.
- (3) The applicant must provide further information relating to the application as required by the council.
- (4) If the council proposes to register the premises, an authorised officer of the council must enter and inspect the premises to determine whether the person has complied with business codes of practice that apply to the business.

This is a disaster!

- **It gives too much power to Councils. One Council in Victoria went so far as to order residents who had exceeded their caps to have their existing dog family members surrendered or else euthanised. Pets they had kept for years – to be handed over. An absolute abuse of power! Don't let this happen in NSW!**
- Councils are not qualified to assess or evaluate animal welfare – and they are not legislated under the regulations within POCTAA to do so.
- Victorian Local Councils have over-zealously introduced additional restrictions and requirements that have resulted in varying rules across different LGA's. An unlevel playing field!

- Councils have demanded exorbitant application fees and placed additional requirements (outside those required by the Victorian Domestic Animals Act) resulting in DA costs in the tens of thousands of dollars.
- This effectively has shut down small responsible breeders leaving ONLY the larger breeders who can afford the costings to be established.

On the flip-side:

- This will require many Councils to employ more rangers, especially if every person breeding more than two female animals MUST be inspected every year.
- This will add further costs to rate payers.
- Further burden on Councils who already are incapable of keeping their Pet Registry responsibilities met without this monolith of a workload.

Do Councils WANT this responsibility?

- Many Animal Management Officers in Victoria that ACA have spoken to, oppose the restrictions and they acknowledge they have created more problems than those they've resolved.

61 F (1) - The Bill states the person 'may' apply (not MUST) to Council! What happens if they choose not to? How is this enforceable?

61 F (4) – NSW has several Registering Associations, such as NSW Cat Fanciers Association Inc, the Master Dog Breeders and Associates, etc . These organisations have thousands of members – the vast majority of whom will be following their respective NSW Codes of Practice as well as organisational Codes of Ethics. Most have been doing this for years. They are experienced responsible breeders. What happens to their animals if when being inspected for the purpose of approving the registration as a Companion Animals Business, the Local Council decides to:

- a) Add additional requirements outside of those already legislated;
- b) Charge exorbitant fees not able to be afforded by the breeder;
- c) Simply takes this as an opportunity to completely remove breeders from the neighbourhood
- d) Sends a Ranger who has no education or understanding of the requirements of a specific breed

Will the Government:

- support the seizure of the animals?
- compensate the breeder for \$1000's in value of animals?
- support the older animals being euthanised because they will not be the target of pet seeking shelter attendees?

Don't believe Councils will do that? See Clause 61 I - it gives them ALL that power.

Sections 61 I, J, K and L - essentially the powers granted to Local Councils.

Where is the accountability of the Local Councils?

For years the AJP has called for more accountability and transparency of the RSPCA & AWL and yet here this Bill simply hands all the responsibility and problems to Local Councils!

- NO scope or mention of appeal of a Council decision.
- One has to assume you would appeal with the Council! How is that any different to the existing issues of appealing an RSPCA decision WITH the RSPCA?

-
- **Where is the directive that implores Council to understand POCTAA legislation and the acknowledgement of the point where Council hands over to the legislated compliance organisations.**

Grounds for Refusal:

61 K (a) – the proprietor has at any time declared bankruptcy

- **Now Council are financial experts?**
- **How does having declared bankruptcy in your daily business affect or the capacity to support good welfare outcomes for their animals?**
- **What does having a bad business-mind do with your capacity to keep and breed animals?**
- **Currently due to the restrictions of Covid-19 – many businesses will have had to declare bankruptcy through no fault of their own – how and MORE IMPORTANTLY WHY should that impact on your ability to keep and breed dogs or cats?**

61 k (b) – MAY not be able to meet expenses of running a companion animal business

- **How does a Council prove this and more importantly show cause to justify this decision?**
- **Again, are Council now financial experts?**

61K (e) – does not have sufficient qualifications or experience in caring for companion animals

- **According to whom?**
- **What qualifications does someone need to have to care for companion animals?**
- **Where is that legislated?**
- **Who will set that criteria?**
- **Who will vet that criteria?**
- **Will this mean every companion animal breeder will need to complete Animal Studies Certificates?**
- **Will the Government compensate this requirement?**
- **Would the Government be prepared to deal with the backlash of this being mandatory – as prescribed in this Bill.**

61 L (a) – is an applicant or proprietor in relation to another companion animal business

- **On what grounds and legality can a government prevent a person from owning a pet business professionally and mandate that they cannot keep and own their own personal breeding companion animals?**
- **This especially applies to those who run Boarding Facilities or Dog Training businesses. How does preventing them from also breeding their companion animals at home improve animal welfare, eradicate puppy farming or better still - pass the 'pub test.'**
This is absolute animal rights ideology at it's extreme!

61N Registration—term and cessation

- (1) A registration remains in force until 1 year has elapsed since the day of the registration.

- This will end 'Preservation Breeding' – the ongoing structured breeding designed to ensure the future of vulnerable breeds. This planning requires multiple years of breeding, which would not be viable if at the end of any year the breeders registration could be stopped.
- This applies to other forms of breeding programs beyond preservation breeding. Cat breeders in particular would need to re-consider the investment in a queen. Queens don't come into 'season' every year, so the breeder would need to run the risk of Council not renewing a registration without ever having bred a cat.

61O Registration applications—councils must provide general information

(1) A council must, within 7 days of making a decision to grant or refuse an application to register premises under Division 2, provide the following general information to the Departmental Chief Executive —

- (a) the name of the applicant,
- (b) the name of the companion animal business,
- (c) the tax file number, Australian Business Number or Australian Company Number of the applicant or business
- (d) the type of companion animal business,
- (e) the address of, and contact details for, the companion animal business,
- (f) the name of the owner of the premises at which the companion animal business is to be conducted,
- (g) the details of a finding of guilt made against the applicant for an offence under the following, if any—
 - (i) this Act or the regulations,
 - (ii) the Prevention of Cruelty to Animals Act 1979 or a regulation made under that Act,
 - (iii) the Crimes Act 1900, section 79, 80, 530 or 531,
- (h) the details of the applicant's qualifications or experience in caring for companion animals, if any,
- (i) another matter that may be prescribed by the regulations.

Essentially creating a breeders database that will be subject to Freedom of Information and/or Government Information Public Access Act allowing Animal Rights Extremists direct access and knowledge of companion animal breeders. This is the companion animal breeders version of the Farm Transparency Project formerly Aussie Farms.

61P Registrations granted — councils must provide additional information

(2) If the companion animal business is a companion animal breeding business, the council must provide the following additional information —

- (a) the number of dogs or cats kept, or to be kept, at the registered premises,
- (b) the number of dogs or cats that are the subject of a breeding arrangement,
- (c) the unique identification number allocated to the microchip implanted in each dog or cat,
- (d) the breed, date of birth, sex and colour of each dog or cat,
- (e) whether each dog or cat has been desexed,

(f) the number of litters each female dog or cat has had and when they were delivered

- **Is this requirement in addition to the 'pet registry' already in place, or in place of?**
- **If Council currently struggle to update microchipping numbers (currently up to 6 months delay) how reliable will this information be?**
- **This will create a monolith of backlog as each breeder will be required to provide this to Council**
- **Council will profit greatly if breeders are to be charged a fee by Council when notifying of each litter.**

61S Companion animal businesses must be issued source numbers

(1) The Departmental Chief Executive must, on receiving the information under the following provisions—

(a) section 61P—issue a source number to the proprietor concerned and notify the relevant council of the number issued, or

(b) section 61Q—renew the source number issued to the proprietor concerned and notify the relevant council of the number renewed.

(2) The source number remains in force for the term of the relevant registration.

(3) If a council suspends or revokes the relevant registration, the proprietor's source number is also suspended or revoked

- **Source number system only incentivises underground breeding – as seen in Victoria.**
- **Currently in NSW you can obtain a Breeder Identification Number (BIN) without being verified as holding a breeder prefix with a registering body, which is why the system is currently failing. Updating the Pet Registry system to include a mandatory verification of a breeders prefix with the members Association will correct this issue in NSW without the need to add an additional layer of a Source number. ACA has been advised by the Office of Local Government that this update will occur with the current revision and release of the new Pet Registry**
- **This clause will provide the opportunity for breeders who are not members to legitimise themselves, without the scrutiny or codes of ethics applied to members of Associations.**
- **Favouritism of locals within Council Shires will also be of benefit when seeking to be approved by Council as a companion animal business and obtaining the source number.**

61U Animal rescues, microbreeders and other sellers—Departmental Chief Executive to grant or refuse applications for source numbers

(2) The Departmental Chief Executive must refuse the application if the Departmental Chief Executive is satisfied the applicant—

(a) has been found guilty of an offence under the following—

(i) this Act or the regulations,

(ii) the Prevention of Cruelty to Animals Act 1979 or a regulation made under that Act,

(iii) the Crimes Act 1900, section 79, 80, 530 or 531,

(iv) a law of another State or a Territory that corresponds with a law referred to in subparagraphs (i)–(iii), or

-
- **Prohibited from breeding and selling if you were EVER in your lifetime found guilty of an offence. Even a minor offence? Once guilty – permanently guilty.**
 - **There are a multitude of people who have plead guilty to minor offences under legal advice simply to avoid the costly legal expenses of proving their innocence. None of these have committed serious acts of cruelty.-that is, their actions have been welfare based, but not criminal. These people will not just give up breeding and walk away. They will continue – off the record. These are the people that need to be supported and educated, not banned and forced underground.**

61Z Persons must not conduct companion animal businesses on unregistered premises - A person must not conduct a companion animal business on premises that are not registered for that purpose with the relevant council.

- **Councils have the potential to be biased when determining whether or not to register the premises.**
- **Councils in Victoria have insisted on the inclusion of parking areas and public toilets on properties that are residential.**

61ZC Proprietors of companion animal breeding businesses must not have more than 10 fertile female dogs or cats A proprietor of a companion animal breeding business must not have, at any one time, more than 10 fertile female dogs or 10 fertile female cats, including a fertile female dog or cat that is the subject of a breeding arrangement.

- **This will end preservation breeding. Multiple females are paramount to maintain genetic diversity**
- **If 10 fertile females is the limit then each fertile female will be moved on as soon as they have provided two litters – the costs of desexing each female in order to provide it with a forever home will result increasing**
 - **Surrendered animals**
 - **Dumped/abandoned animals**
 - **Euthanised animals or even worse,**
 - **Hidden animals in appalling conditions to avoid Council detection.**
- **This Clause is stricter than that of Victoria’s legislation. Victorians are permitted to keep up to 50 fertile females by applying for written permission from the Minister.**

This will make NSW the ANTI-COMPANION ANIMAL capital of Australia.

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

- (1) Within 4 weeks before breeding from a dog or cat of the business, a proprietor of a companion animal breeding business must obtain from a veterinary practitioner—
 - (a) an assessment of the dog or cat, and
 - (b) a certification that the dog or cat is suitable for breeding.

(2) Before breeding from a dog or cat on the first occasion, for the purposes of certifying that the dog or cat is suitable for breeding under subsection (1), the practitioner's assessment must include an assessment that the dog or cat is—

- (i) at least 12 months of age, and
- (ii) sufficiently physically mature for the purposes of breeding

This clause highlights the Animal Justice Party's total lack of understanding of breeding companion animals:

- **Cats do not have regular seasons – you cannot plan when a cat will go into season. This makes the 4 week assessment impossible, and the assessment will take place on a cat already in season.**
- **Dogs also do not go into season at a designated time – again making the 'within 4 weeks' clause an impossibility**
- **This impossibility would leave most breeders in a situation where they will have breached this Bill through no fault of their own.**
- **A veterinary practitioner is NOT a breeding or reproductive specialist, therefore they are unable to certify an animal is suitable for breeding – particularly given nature tends to control how viable a bitch or queen will be.**
- **The best outcome a vet could provide is a basic health check. This does not certify suitability for breeding.**
- **Veterinarian practitioners and breeders (proprietors) have no control over nature.**
- **If complications during or after breeding were to be found, or a heritable defect was found, would the vet be held liable?**
 - **If so, by whom?**
 - **How would this be progressed and proven by government or by the breeder?**

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.

Clause (a) is against accepted practice.

- **Fertile females can breed healthy litters beyond just two.**
- **Current legislation already restricts dogs to no more than 2 litters in a 2 year period, and cats to no more than 3 litters in a 2 year period.**
- **Just two litters per female is not sustainable and will result in poor improvement of breeds due to a lack of variance in breed lines.**
- **Breeders will not import lines from overseas as it is not economically viable in any one female can only produce twice. Importing costs \$10,000's – two litters doesn't cover that cost.**
- **Just because a litter has been born doesn't guarantee the survival of the litter. Litters can be still-born. Progeny may not survive. In essence some females will be retired without having produced any progeny or guaranteeing her bloodline will continue.**
- **Breeds will be quickly decimated.**

Clause (b) will successfully eliminate a number of breeds of both dogs and cats as a number of heritable defects are found across multiple breeds. Breeding programs designed to repair or remove these defects will effectively be ceased leaving only those animals with defects until those breeds die out.

Clause (c) is of greatest concern.

- This will stop the opportunity when a defect is discovered within the DNA of one parent and only part of a litter from any of the 'defect-free' animals from being mated together to produce defect-free progeny.
- There are a significant number of breeds of dogs & cats in Australia with less than 100 animals across the country – most are related by blood – subject to how many generations is considered to be 'by blood'.

Again – this clause will see the extinction of those breeds in Australia.

- Most are already feared to not exist within the next 5 years if breeding is not amplified rather than decreased.
- The registered numbers of these breed have shown a decline in almost all vulnerable breeds since the introduction of similar legislation in Victoria.
- That effect is from just one state/territory being impacted. The impact will be amplified with Western Australia about to introduce similar restrictions.
- The implications of NSW also introducing restrictions will be catastrophic.

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

(1) A proprietor of a companion animal breeding business must ensure that, at all times, there is at least 1 staff member at the proprietor's registered premises for every 5 animals kept at the premises.

A totally ridiculous requirement.

- The average litter for dogs is 9-12, with some breeds having up to 20.
- The average litter for cats is 4-6, with some breeds having 9 or more.
- Taking into account that if a breeder has at least 3 adult females, plus at least 1 male, with an average size litter, then the average number of staff required each litter is 3-4. Add to that the additional staff required when each next litter is born, until the previous litter is sold (some 2-3 months later), and that is hefty number of people required who are classed as "staff".
- Staff **MUST** be present at all times. This would equate to all staff needing to be housed or accommodated by the breeder – regardless of whether they are a facility or a residence.
- What is the definition of 'staff'? – Paid employees, unpaid friends or family, volunteers? There is a multitude of other laws and obligations that comes with having paid 'staff' such as taxation laws, superannuation, occupational health and safety, leave entitlements, etc.
- This Bill is effectively government legislating a hobbyist into a commercial entity! Is that even legal? It's certainly not moral! The proof of this is the prison sentence for not complying doesn't apply to commercial entity (corporation) **ONLY** to the individual (hobbyist)

61ZI Proprietors of companion animal breeding businesses must prepare health management plans

- (1) A proprietor of a companion animal breeding business must, in consultation with a veterinary practitioner, prepare a plan for the ongoing care of the health and wellbeing of dogs and cats of the business (a health management plan) that—
- (a) is certified by a veterinary practitioner each year, and
 - (b) includes protocols as to the following—
 - (i) the health and welfare of dogs and cats, including in relation to birthing, diet, disease prevention, environmental enrichment, exercise, grooming, hygiene, parasite prevention, socialization and vaccinations,
 - (ii) the process for determining the suitability of dogs and cats for breeding,
 - (iii) the quarantine and movement of dogs and cats,
 - (iv) emergency response plans, including evacuation procedures,
 - (v) the retirement and rehoming of dogs and cats

This is again outside of the scope of a veterinary practitioners qualifications.

- (1) (a) why would a vet want to renew this plan for each animal on a yearly basis? Vets are already over-run, over-worked, and under staffed. Does the Australian Veterinary Association support this workload?**
- (1) (b) (i) not all vets are experienced in environment enrichment, grooming, socialisation or training requirements.**
- (1) (b) (ii) vets are not breeding specialists who are qualified to make that determination**
- (1) (b) (iii) not only is this impossible to document – how does one know when, where or if a particular animal will be staying (retiring) or will require rehoming, in advance? There are so many elements that enter into that decision.**
- **What business or qualification does a vet have to determine or even agree with such a plan?**
 - **This is a component specifically designed to full fill the AJP's key objective of selling animals via shelters.**
 - **It is effectively removing the free choice of the animals' owners.**
- (1) (b) (iv) this is already a requirement within POCTAA and is not an element under a Health Management Plan.**
- **The AJP constantly rant on about an animal NOT being someone's property – yet this is subjecting that animal to a contract and a contract with an expiry date for the animal.**
 - **Shelters WILL be euthanising at ridiculously high rates because of this Bill.**

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

- (1) A proprietor of a companion animal breeding business must cease breeding and retire a dog or cat of the business if—
- (a) the dog or cat is—
 - (i) no longer suitable for breeding, or
 - (ii) no longer required by the business, or
 - (iii) is female and has delivered 2 litters, or
 - (b) for a dog—the dog is male and is 6 or more years of age
- (2) The proprietor must, as soon as practicable, ensure the retired dog or cat is—

- (a) desexed, unless a veterinary practitioner considers it inappropriate to do so for health reasons, and
- (b) microchipped, and
- (c) kept by the business as a companion or rehomed to a suitable home

(1) (b) What veterinary qualifications does the AJP have to contradict standard veterinary practice? Any responsible vet will advise against desexing an older animal unless there are necessary medical benefits.

There is no documented welfare reason to desex an animal at 6 years of age, no welfare advantage.

By removing the male at 6 years of age and all females after two litters this is effectively reducing genetics and healthy bloodlines to the point of extinction of the breed.

(2) (a) most vets will consider it inappropriate – defeats the point of this clause.

(b) aren't all animals meant to be microchipped as puppies/kittens? Defeats the point of this clause.

(c) again we find this push to ensure the supply of shelters.

61ZL Pet shops—persons must not sell certain companion animals

A person must not sell, or cause the sale of, a companion animal that is not from a rehoming organisation to the proprietor of a pet shop

61ZM Pet shops—proprietors must not receive or sell certain companion animals

(1) A proprietor of a pet shop must not, in conducting the business of a pet shop, accept or receive a companion animal for sale that is not from a rehoming organisation.

(2) A proprietor of a pet shop must not, in conducting the business of a pet shop, sell, or cause the sale of, a companion animal that is not from a rehoming organization

ACA acknowledges this amendment is current targeting dogs and cats however these clauses when applied to pet shops may have broader consequences. The inclusion of 'companion animal' rather than dog and cat, once legislated could result in the cessation of all animals ordinarily sold in pet shops (other than those from shelters). The Companion Animals Act 1998 defines companion animal as:

companion animal means each of the following—

(a) a dog,

(b) a cat,

(c) any other animal that is prescribed by the regulations as a companion animal.

Note— The fact that an animal is not strictly a “companion” does not prevent it being a companion animal for the purposes of this Act. All dogs are treated as companion animals, even working dogs on rural properties, guard dogs, police dogs and corrective services dogs.

ACA reminds you that the amendment of a Regulation requires no consultation or approval via parliament and can be implemented by the current portfolio Minister. Should this legislation exist in a future government it could easily result in the inclusion of small mammals (rabbits, rats, guinea pigs), reptiles, fish and birds.

61ZN Pet shops—proprietors must not receive or sell dogs and cats of certain age

- (1) A proprietor of a pet shop must not, in conducting the business of a pet shop, accept or receive a companion animal for sale that is—
 - (a) a dog less than 6 months old, or
 - (b) a cat less than 8 weeks old.
- (2) A proprietor of a pet shop must not, in conducting the business of a pet shop, sell, or cause or allow the sale of—
 - (a) a dog less than 6 months old, or
 - (b) a cat less than 8 weeks old

(1) (b) & (2) (b) - although the Breeding Code of Practice states a kitten can be sold at 8 weeks, all cat breeders in NSW with a prefix registered with a recognised registration body must not sell/rehome a kitten prior to 10 weeks.

(1) (a) & (2) (a) – a dog older than 6 months is too old. Most dogs older than 6 months that find their way to shelters are usually surrendered for behavioural issues. Shelters are not qualified in animal behaviour studies – particularly those shelters staffed by volunteers. ACA has received countless accounts of dogs rehomed by shelters (including from the RSPCA) where the bad behaviour, lack of socialisation as a puppy and even health issues have been ignored or hidden in order to simply rehome the dog rather than re-train or euthanise the animal.

- **Most families (particularly those with children) when search for a new pet will be looking for a puppy or kitten. A 6 months old dog will be overlooked. A 6 month old dog that has experienced a sheltered life will have reduced socialisation skills, and the loss of being able to do this as a puppy with its new family does impact on how well it settles in to its new home. In essence, animals from shelters are often ignored because no one wants to buy someone else's problem animal.**
- **Whether we all support the sale of dogs and cats in pet shops, or not, without the ability to go to a pet shop or a responsible breeder, people will go online. People will seek out the animal they want.**
- **The fact that pet shops are regulated, you can walk in and see the animal you're buying far outweighs the alternative.**
- **The recent rise in scammers in Victoria from online sales is not a coincidence: Victoria have a reduced supply of animals due to the demise of responsible breeders and the inability of people able to walk into a pet shop and buy a puppy or kitten.**

61ZP Persons must not advertise dogs and cats for sale without source numbers

- (1) A person must not advertise a dog or cat for sale, or cause a dog or cat to be advertised for sale, whether or not the sale is for profit or a fee, unless the advertisement includes the source number of the person that is selling the dog or cat.
- (2) A person must not publish, or cause the publication of, an advertisement of a dog or cat for sale, whether or not the sale is for profit or a fee, unless the advertisement includes the source number of the person that is selling the dog or cat.

As previously highlighted people are finding ways to ignore this.

- **In Victoria Source numbers are simply copied by scammers. This is already happening in**

NSW with BIN's as part of the current Pet Registry.

- **Social media accounts (other than Facebook) are not monitored or regulated. Even on Facebook, schemes and codes have been introduced allowing the sale of animals to continue.**

69I Definitions:

Departmental officer means an employee of, or other person engaged by, the Office of Local Government who is authorised by the Departmental Chief Executive to exercise the functions of an enforcement officer under this Division

Would this allow for the Office of Local Government to appoint Council employees (such as rangers) to enter properties under the same powers as existing Authorised Compliance Organisations. Council are neither qualified or authorised under the provisions of POCTAA to do this.

69L Registrations suspended, revoked or expired—enforcement officers may enter property and seize dogs and cats

- (2) On the recommendation of the relevant council or the Departmental Chief Executive, an enforcement officer may—
 - (a) enter a property, and
 - (b) seize a dog or cat of the business that was being kept on the property immediately before the suspension, revocation or expiry of the registration.

- **This permits Council to contact the RSPCA or AWL who can then enter a property without any other cause or warrant!**
- **Dogs and cats can be seized BEFORE a registration is suspended, revoked or expires?**
 - **On what grounds if the animals are in good health and welfare standards are being met?**
 - **Where is the right of appeal?**

This is absolute overreach and abuse of power.

Appendix 1:

Reference; Animal Welfare Code of Practice Breeding of Dogs and cats NSW

1 PREFACE

Compliance with this Code does not remove the need to abide by the requirements of the *Prevention of Cruelty to Animals Act 1979* and any other laws and regulations, for example; the *Local Government Act 1993*, or the *Companion Animals Act 1998*.

This Code contains both standards and guidelines for the care of dogs or cats for breeding. The standards have legal effect in two ways:

- Failure to meet a standard may result in a Penalty Infringement Notice or a prosecution under clause 26 of the *Prevention of Cruelty to Animals Regulation 2012*.
- In more serious cases, failure to meet a standard may support a prosecution for an offence under the *Prevention of Cruelty to Animals Act 1979*.

2 INTRODUCTION

- 2.3** This Code comprises both Enforceable provisions and guidelines. Enforceable provisions are identified by the words “Standards”, and are located within the boxes

3 INTERPRETATION AND DEFINITIONS

3.1 INTERPRETATIONS

Objectives

The intended outcome(s) for each section of this Code.

Standards:

Standards describe the mandatory specific actions needed to achieve acceptable animal welfare under law.

They are identified in the text by the heading “Standards” and use the word “must”. They are highlighted in boxes within the text.

6 ANIMAL HOUSING

Objective

The accommodation, environment and security of animals should be of a standard which ensures their security, safety and wellbeing

6.1 ACCOMODATION

6.1.1 Standards

- 6.1.1.1 Vehicles, caravans, portable crates and the crawl space under any dwelling must not be used as permanent housing for dogs and cats.
- 6.1.1.2 Premises must have a continuous water supply, adequate to meet the daily requirements of the dogs and cats held.
- 6.1.1.3 Premises must be designed, constructed, serviced and maintained in a way that provides for the good health and wellbeing of the animals, prevents the transmission of infectious disease agents, prevents the escape of animals and does not cause injury to either animals or humans.
- 6.1.1.4 Animals must be provided with shelter from rain and wind, direct sunlight or other adverse weather conditions and must be provided with a clean and dry dedicated sleeping area.
- 6.1.1.5 Where a premises houses both dogs and cats, cat housing must be a sufficient distance or otherwise isolated from dog housing to minimise the stress created by the sound, sight or smell of dogs.
- 6.1.1.6 Where dogs or cats are not housed in enclosures, the minimum floor space requirements in Tables 1 and 2 must be complied with.
- 6.1.1.7 Where dogs and cats are housed in enclosures, minimum enclosure sizes in Tables 3 and 4 must be complied with. These limits do not apply to a dog or a cat for the period of time
- it is under veterinary care or direction in relation to a disease or injury, or
 - it is under observation during birthing.
- 6.1.1.8 Roofed enclosures must have a minimum height of 180cm to allow persons in charge to enter, access animals and clean the enclosure.
- 6.1.1.9 Dogs and cats must not be in extended contact with wet floors.
- 6.1.1.10 Each cat must be provided with a suitable box in which to hide or sleep
- 6.1.1.11 All sleeping areas for cats and dogs must have clean, hygienic, dry and soft bedding, appropriate to the species and breed, sufficient for the number of animals held, and sufficient to insulate them from the floor.
- 6.1.1.12 Each confined cat must be provided with a litter tray which is at least 1.2 times the length of the cat from the tip of its nose to the base of its tail, and which contains a sufficient depth of material such commercial cat litter, sawdust, shavings, sand or shredded paper.

Table 1: Minimum Floor Space For Non-Enclosed Dog Housing

Animal/s	Min floor area (m ²)*
Socially compatible group of dogs, < 40 cm height at shoulder, housed in back yard or house	1.5 per dog
Socially compatible group of dogs, 40–60 cm height at shoulder, housed in back yard or house	2.4 per dog
Socially compatible group of dogs, > 60 cm height at shoulder, housed in back yard or house	3.5 per dog

* Minimum floor area includes the area allocated to bedding.

Table 2: Minimum Floor Space For Non-Enclosed Cat Housing

Animal/s	Min floor area (m ²)*
Socially compatible group of cats, housed in back yard or house	0.8 per cat, with provisions made for vertical space

* Minimum floor area includes the area allocated to bedding

Table 3: Minimum Enclosure Sizes For Dogs

Animal/s	Min floor area (m ²) *	Min width (cm)	Min height (cm) for non-roofed enclosures	Min height (cm) for roofed enclosures
Puppy/ies (+/- bitch) < 40 cm height at shoulder	3.5	120	120	180
Puppy/ies (+/- bitch) 40–60 cm height at shoulder	3.5	120	150	180
Puppy/ies (+/- bitch) > 60 cm height at shoulder	3.5	120	180	180
1 dog, < 40 cm height at shoulder	1.5	90	120	180
2 dogs, < 40 cm height at shoulder	2.5	90	120	180
3 or more dogs, < 40 cm height at shoulder	1.5 per dog	90	120	180
1 dog, 40–60 cm height at shoulder	2.4	90	150	180
2 dogs, 40–60 cm height at shoulder	3.6	90	150	180
3 or more dogs, 40–60 cm height at shoulder	2.4 per dog	90	150	180
1 dog, > 60 cm height at shoulder	3.5	120	180	180
2 dogs, > 60 cm height at shoulder	5.2	120	180	180
3 or more dogs, > 60 cm height at shoulder	3.5 per dog	120	180	180

* Minimum floor area includes the area allocated to bedding.

Table 4: Minimum Enclosure Sizes For Cats

Animal/s	Min floor area (m ²)	Min height (cm)	Min width (cm)
Kitten/s* (+/- queen)	0.8	210 *	60
Single cat	0.8	210 *	60
Cats (max 2)	0.8	210 *	60

* The module must contain at least 2 levels incorporating raised sleeping quarters. Access to all levels must be available through the provision of ramps, poles, steps or the like.

Notes

The floor space requirements and enclosure sizes provided in Tables 1, 2, 3 and 4 provide the minimum enforceable standard.

Enclosure heights for animals should consider breed, animal behaviour and security.

Refer to Standard 6.1.1.3 in relation to ensuring fencing is adequate to protect against escape or injury to animals or humans.

Breeders of dogs and cats are strongly encouraged to check local council regulations with respect to boundary fence heights.

Breeders of dogs and cats are strongly encouraged to ensure that the physical and mental needs of individual animals are met by their spatial environment.

6.2 ENVIRONMENT

6.2.1 Standards

- 6.2.1.1 Animals must have access to a shaded area, when exposed to sunlight.
- 6.2.1.2 Dogs and cats must be protected from extremes of temperature.
- 6.2.1.3 Where artificial lighting is used in a premises other than a house, the duration and intensity of the lighting must be as close as possible to natural conditions and mimic the prevailing natural light cycles, but still allow for inspection and observation of the animals. Animals must be protected from excessive light which is generated from an external source (such as from floodlights).
- 6.2.1.4 Premises must be sufficiently ventilated to maintain the health of the animals; while minimising undue draughts, odours and moisture condensation.
- 6.2.1.5 If air ventilation devices are used, they must have an air change rate which is sufficient to distribute fresh air evenly to all of the areas holding animals, and must have a back-up system in the case that the ventilation device becomes inoperable

31st December 2021

Kim Filmer

Chief Animal Welfare Officer

NSW Department of Primary Industries.

Dear Kim,

RE: Discussion Paper for Licensing of Breeding Dogs and Cats in NSW

Animal Care Australia (ACA) would like to thank you for the opportunity to provide feedback on this Consultation Paper.

ACA questions what Minister Marshall's intent could be by proposing a licensing system given the existence of a current regulatory framework?

ACA equally acknowledges the recent change of Minister however, this scheme was proposed by Minister Marshall, and to date we have not been advised that Minister Saunders is intending to cease the proposal, therefore we are responding to the proposal, under the belief the consultation and subsequent implementation will continue.

As stated in the Paper's introduction, the primary objective of any regulatory framework must be the improvement of animal welfare. What additional welfare outcomes would a licensing system provide that are not already regulated?

Under what structure or framework does the Minister believe a licensing system will capture/encompass those who are currently not meeting their obligations?

ACA does not believe a licensing scheme/system will be of any benefit, however in response to the consultation paper, and the Minister's intent to ONLY license large-scale-breeders ACA would like to make the following recommendations:

1. **ACA does not recommend any exemptions from a fit for purpose Code of Practice (COP).**
 - a. A new 'fit for purpose' Code of Practice is required to ensure appropriate compliance requirements/standards are provided that are situation and breed specific. All dogs and cats are entitled to be bred under the same welfare standards.
 - b. ACA does not support the current exemptions for working dogs. Working dogs are being bred and sold as companion animals, therefore should not be exempt.
2. Should a licensing scheme be required, the existing Register of Companion Animals should be utilised as the licensing system. ACA sees no reason to duplicate what is predominantly already in existence. Or if,
 - a. Should a licensing scheme ONLY be required for large-scale/commercial breeders, ACA recommends the following definition for determining who should be licensed:
 - i. commercial breeder means a breeder who derives the majority of their income from the breeding and sale of dogs and/or cats, and/or
 - ii. who holds 26 or more fertile dogs and/or cats. And,
 - b. Implement in Sch 1 of the Regs....
<https://legislation.nsw.gov.au/view/whole/html/inforce/current/sl-2012-0408#sch.1>
Replace....
Animal breeding establishment (that is, a business in the course of which dogs or cats are bred for fee or reward)
With...
Animal breeding establishment (that is, where the owner derives the majority of their income or maintains 26 or more fertile dogs/cats)
3. Pro-active Compliance Audits DO NOT include unannounced visits. Pro-active Compliance Audits are agreed to as part of a licensing agreement (such as the current Exhibitors Licenses) or made by mutual appointment with a breeder. ACA DOES NOT & WILL NOT SUPPORT random audits that are

unannounced unless there is an immediate reported animal welfare concern or a warrant has been provided to access the property.

After all, doesn't every dog and cat deserve to be bred under high welfare standards?

It should be noted that not all dog breeders are members of breeding associations, in fact statistics show many dog owners generally own a couple of dogs who may breed on an irregular basis. This highlights the need to ensure a COP is suited and structured to cater for ALL dog owners and not just those of major breeding associations and why every breeder should be subject to and made comply with a COP.

ACA is working on a proposed COP that is fit for purpose encompassing the differences of how our dogs and cats are kept, housed and bred, such as inside a home, or roaming an enclosed yard, etc. This will be based on the model currently utilised in South Australia and modified to match the needs within NSW. ACA will forward our proposed COP early in January for your consideration.

If we are all serious about ensuring the welfare of dogs and cats, particularly during breeding, then our Recommendation 2a to utilise the current Pet Registry would be a viable one size fits all resolution. ACA is prepared to provide to both the DPI and Office of Local Government a detailed response outlining the necessary updates required to enable a viable and workable system.

ACA again highlights our Recommendation 2b & 3 relating to the RSPCA Inspectorate viewing all breeders as 'commercial-entities' and hence, under POCTAA s.24G, their homes are open to inspections without owner permission or notification. As per our meeting with the previous Minister Marshall, this MUST change.

As per our other recommendations, if all breeders are subject to a COP – with no exceptions, and that COP is structured in a manner that is easily complied with by all breeders, then the excuse/purpose of the need to be able to inspect for compliance is met without the need for the compliance agencies to utilise that loophole. The claim that compliance agencies should be able to just attend a property unannounced without good cause, a reported welfare concern or a warrant is questionable at best.

We thank you again for the opportunity to provide feedback and look forward to further consultation. Should you have any questions please do not hesitate to contact us.

Kind regards,



Michael Donnelly
President, Animal Care Australia.
0400 323 843

**NSW DPI Consultation
Paper - Licensing of cat
and dog breeders.
2021**



DECEMBER 31 2021

**ANIMAL CARE AUSTRALIA
STAKEHOLDER SUBMISSION**

NSW Licensing of cat & dog breeders 2021

Introduction:

Animal Care Australia (ACA) would like to thank you for the opportunity to provide feedback on this Consultation Paper.

ACA acknowledges the Paper's introductory points highlighting the existence of a current regulatory framework - that being - the Prevention Of Cruelty to Animals Act 1979 (POCTAA), the Companion Animals Act 1998 (CAA) including the Pet Registry, and the more recently revised NSW Breeding of Dogs & Cats Code of Practice 2021 (COP).

In light of these, ACA questions what Minister Marshall's intent could be by proposing a licensing system?

ACA equally acknowledges the recent change of Minister however, this scheme was proposed by Minister Marshall, and to date we have not been advised that Minister Saunders is intending to cease the proposal, therefore we are responding to the proposal, under the belief the consultation and subsequent implementation will continue.

As stated in the Paper's introduction, the primary objective of any regulatory framework must be the improvement of animal welfare. **What additional welfare outcomes would a licensing system provide that are not already regulated?**

Under what structure or framework does the Minister believe a licensing system will capture/encompass those who are currently not meeting their obligations?

Recommendations:

Firstly, ACA does not believe a licensing scheme/system will be of any benefit, however in response to the consultation paper, ACA would like to make the following recommendations:

-
1. ACA does not recommend any exemptions from a fit for purpose Code of Practice (COP).
 - a. A new 'fit for purpose' Code of Practice is required to ensure appropriate compliance requirements/standards are provided that are situation and breed specific. All dogs and cats are entitled to be bred under the same welfare standards.
 - b. ACA does not support the current exemptions for working dogs. Working dogs are being bred and sold as companion animals, therefore should not be exempt.
 2. Should a licensing scheme be required, the existing Register of Companion Animals should be utilised as the licensing system. ACA sees no reason to duplicate what is predominantly already in existence. And,
 - a. Should a licensing scheme ONLY be required for large-scale/commercial breeders, ACA recommends the following definition for determining who should be licensed:
 - i. commercial breeder means a breeder who derives the majority of their income from the breeding and sale of dogs and/or cats, and/or
 - ii. who holds 26 or more fertile dogs and/or cats. And,
 - b. Implement in Sch 1 of the Regs....
<https://legislation.nsw.gov.au/view/whole/html/inforce/current/sl-2012-0408#sch.1>
Replace....
Animal breeding establishment (that is, a business in the course of which dogs or cats are bred for fee or reward.
With...
Animal breeding establishment (that is, where the owner derives the majority of their income or maintains 26 or more fertile dogs/cats)

After all, doesn't every dog and cat deserve to be bred under high welfare standards?

For further explanation of the above recommendations, please see the remaining submission.

Contradictions:

During the ongoing consultation process for the Animal Welfare Action Plan Review the Minister, the Department of Primary Industries (DPI) and many stakeholders have agreed welfare is not about numbers, and yet now we find the Minister appears to be contradicting that agreement.

The outcome of the NSW Joint Select Committee on Companion Animal Breeding Practices in NSW, found that there is no evidence that the number of animals kept by companion animals breeders is in itself a factor which determines welfare outcomes of breeding animals.

In Minister Marshall's media release he states:

“We currently don't licence large-scale commercial dog breeders in NSW, which has made it more difficult for enforcement agencies and local councils to do their important work and allowed illegal operators to escape scrutiny.”

“The NSW Government is proposing to introduce a commercial dog breeder licensing scheme that would provide additional oversight of larger-scale breeders to give the community confidence breeders are providing a high standard of welfare for their animals.”

The Minister goes on to add:

“There are absolutely no plans to burden primary producers or hobby breeders, these proposed changes are aimed squarely at large-scale commercial breeders, as that is where the concerns and problems are,”

If welfare is not about numbers, then why:

- is the Minister stating the licensing system will not affect hobby breeders and is being aimed at large-scale breeders?
- did the Minister and/or the DPI not clearly define a commercial or large-scale-breeder, or for that matter his understanding of a hobby breeder? Particularly when seeking public feedback?

ACA's only logical conclusion is that the Minister and the DPI do not want to take ownership of the responsibility of providing definitions and would rather leave the option open for any 'blame game' to be laid solely back on the key stakeholders.

ACA believes the Minister's first statement above is comprised of a major contradiction. If enforcement agencies and Local Councils are aware of these large-scale breeders and they are being deemed as illegal operators then isn't that reflective of the agencies' ability to investigate these breeders and/or of the current regulatory framework failing AND NOT something that would be remedied by a licensing system that would be ignored by an operator who is operating illegally?

A further contradiction lies within the statistics from the **Puppy Farm Taskforce** which commenced in August 2020 and has continued to run through until at least the end of November 2021. The Minister announced the target of this taskforce to be puppy farms, while RSPCA NSW determined it should be all breeders of dogs, renaming it to the '**Breeders Compliance Unit**' (BCU) which is definitely not large-scale/commercial exclusive (where the problems are claimed to be).

As you would know, 4823 animals were inspected, from 209 first-time inspections (with 139 revisits). These inspections resulted in 122 24N Notices that resulted in only 47 penalty infringements and the commencement of only 3 prosecutions. The data¹ also indicates most of the 47 were for minor infringements to do with bedding and vaccinations which are breaches of the COP.

It is clear these statistics do not highlight a major welfare issue – 3 potential prosecutions from over 4800 animals and 209 breeders.

ACA notes the **Puppy Farm Taskforce** – renamed **Breeders Compliance Unit**, has now again been renamed the '**Intensive Breeding Taskforce**' – perhaps due to the backlash of hobby breeders being targeted instead of the intended (almost non-existent) puppy factories?

ACA believes the Minister is bowing to the pressure from the animal rights movement and the proposed licensing scheme is not to the benefit of improved animal welfare but rather political point scoring.

Regardless, ACA does not agree with or support a licensing system as it has no added animal welfare benefit, however, we do concede the intention of the Minister is to

¹ Data from Budget Estimates – NSW Parliament Monday 1st November 2021 – hansard transcript and QON transcript.

introduce a breeders licensing system (regardless of feedback) and accordingly we provide the following feedback on the consultation paper.

<p>Discussion Q 1: Do you have comments on the principles for developing a licensing scheme?</p>
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On the whole animal licensing/registration schemes have a high failure rate, and are rarely able to be policed/audited. In NSW native bird and reptile licensing has a reported 70% non-compliance resulting in a review (carried out 2016-2019) and a proposal that will see most bird owners and their birds removed from the requirement of holding a licence to reduce the number of license holders and reduce the departmental workload.

Dog & cat microchipping (NSW Pet Registry) has Local Councils failing to keep up with the work load and as such many animals go unchecked and unregistered. The public in general, does not recognise or in some cases are not even aware of the requirements to register their dogs & cats and the subsequent microchips. It begs the question how another licensing scheme is going to behave any differently?

In 2017 the Victorian Government introduced changes to the Domestic Animals Act which essentially required a breeder with more than 10 fertile females to be registered and licensed as a commercial entity – a Domestic Animal Business (DAB) - a breeders licensing scheme that in all intents and purposes has failed to prevent the unethical breeders from breeding and has resulted in a decrease of responsible breeders.

It should be noted, in spite of the DAB and legislative changes of regulation of breeders in Victoria, RSPCA Vic is still discovering unlicensed, unregulated large-scale breeders (puppy farms) in that state.

Those that were doing the wrong thing in regards to the care and welfare of their dogs are still doing so, the DAB system has done nothing to 'stop puppy farming' or to regulate off-the-book large-scale breeders. Those that were breeding in poor conditions are still doing so. All the legislation has done is target those breeders that were already transparent and traceable, and made those breeders more accountable to local councils who have their own agendas, adding additional fees, ridiculous DA requirements and regulations, because suddenly the breeders were deemed to be a business/commercial entity. Those that wanted to breed for profit are still doing so, they are just advertising in other places or using fraudulent source numbers, they

register with fake addresses etc., as no one is actually monitoring them. It is only those that are bound by a breeding organisation's COE and that this legislation has impacted.

NSW SHOULD NOT look to follow this path.

The NSW proposal:

Licensing overview

“... a licence makes sure that the NSW Government is aware of who is performing an activity and where they are performing it ... provides an opportunity to engage with the licensee and provide educational material to ensure that the activity is performed safely...”

The CAA requires all dogs & cats to be microchipped and all microchipped dogs & cats to be registered in the Pet Registry – providing the NSW Government AND Local Council AND the compliance agencies with information of their whereabouts and the opportunity to educate. Therefore by this definition any proposed DPI license would in fact be duplicating what already exists.

This system is failing because of its poor structure and the failure of the Office of Local Government to adequately educate the public of its existence and their legal obligations. Perhaps the funding that will be required to develop a second registration scheme could be used to finalise the review of the current registration scheme and implement it?

ACA has consulted with the Office of Local Government during the review of the Pet Registry and everything they are proposing to implement with the revised Pet Registry would serve the same outcome as what is being proposed now.

“... ensure that only appropriate people perform the activity, to place conditions on how the activity must be carried out and to provide for licences to be suspended or cancelled if a licence holder does the wrong thing...”

ACA must question what additional conditions a license would add that are not already required by POCTAA or the COP? If this is referring to a condition of Pro-active

Compliance Auditing² – how is that any different to the current capacity of the compliance organisations to carry out pro-active auditing?

ACA is aware of cases within the Shoalhaven area in September/October 2021 that were subject to RSPCA NSW pro-active compliance audits – despite the pandemic. Arrangements were made with the breeders to return as soon as the lockdowns and restrictions were lifted in November 2021, therefore these are already being enacted.

The current review of POCTAA also has proposals that would allow ‘the Courts’ to place restrictions on people who are found to be guilty of animal cruelty. Surely this would be the same provision as to removing one’s license to breed? Person found guilty of breaches to the COP would have certain restrictions placed on being able to breed animals in the future!

Pro-active Compliance Audits DO NOT include unannounced visits. Pro-active Compliance Audits are agreed to as part of a licensing agreement (such as the current Exhibitors Licenses) or made by mutual appointment with a breeder.

ACA DOES NOT & WILL NOT SUPPORT random audits that are unannounced unless there is an immediate reported animal welfare concern or a warrant has been provided to access the property.

Benefits of licensing

“... Establishing a licensing scheme for larger-scale dog breeders would provide additional oversight of these breeders. This has a range of benefits.

Requiring larger-scale dog breeders to obtain a licence would give confidence to prospective pet purchasers and the broader community that there is appropriate oversight of these breeders to ensure they are complying with their legal obligations and providing a high standard of welfare for their animals.”

A few points of concern:

- again, what is a large-scale-breeder? If numbers of animals is not be used, and the existence of an ABN is not applicable?

² Pro-active Compliance Audit: carried out by mutual appointment with a breeder.

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- The additional oversight of breeders can occur right now. Large-scale breeders (operating openly) are subject to DA approvals by Councils, and are therefore known about and can therefore be inspected by the compliance agencies at any point in time.
 - prospective pet purchasers and the broader community are constantly being told by the media, the animal rights movement and even by some ‘recognised breeding organisations’ that large-scale breeders are puppy farms and yet they continue to purchase their pets from these breeders. What level of additional confidence are we seeking? On this point – would the goal not be better achieved by the Government actively taking its own pro-active stance and educate the public on:
 - responsible buying,
 - how to recognise an unethical breeder,
 - responsibility of registering their animals,
 - responsible breeding,
 - how to report suspected unethical breeders, and,
 - legal responsibilities of a pet owner

to ensure that same stated confidence and high standard of welfare was being met?

After all, doesn't every dog and cat deserve to be bred under high standards?

“... Establishing a licensing scheme would also provide a means of considering whether an applicant is fit to breed before they commence breeding and allows for conditions to be placed on how breeders can operate on a case-by-case basis. For example, a licence could place caps on the numbers of animals that a breeder can keep based on the nature of their facilities....”

Isn't this simply playing the numbers again? Doesn't the COP and POCTAA already place restrictions on the size of enclosures (kennels, catteries etc) that technically restrict the numbers of animals that are able to be legally kept in each said enclosure, thereby allowing that assessment to be made at each specific, case-by-case facility?

If that is not the case, on what legal grounds do the compliance agencies seize dogs/cats due to overcrowding? ACA is very much aware of perfectly healthy animals having been seized, and it was clear the health of the animals was not the concern, rather it was the number of animals involved and how they were being housed.

“... A licensing scheme would also enable enforcement agencies to better target their compliance resources and efforts – both in terms of education and enforcement – towards larger-scale breeders..”

HOW? How would this targeting be any different to what is already occurring?

Remember, those large-scale-breeders whose existence is not openly known are not going to suddenly ‘out themselves’ by joining a licensing scheme. They are going to be found out by people reporting them, upon which the agencies should and would investigate. So how?

In a State currently revising the animal welfare legislation with a goal of improving animal welfare why is this government even considering creating a system that would focus education and enforcement away from smaller scale breeders, particularly when evidence provided at previous Joint Select Committees in NSW and South Australia stated pet owners with only a few animals are just as likely if not more likely to be the one’s not complying with the COP and are not understanding their legal obligations.

Where is their education and their requirement to comply?

Principles for designing a licensing scheme

In response to this entire section ACA sees no reason to develop a separate licensing scheme when the existing Pet Registry could so easily be transformed into a licensing system.

Particularly given it is currently being re-developed to correct its existing flaws.

In relation to proportionate costs – ACA supports the concept, however, without seeing what/who will end up being subject to a licence it is difficult to suggest an appropriate scale of fees.

<p>ACA supports breeders who are members of a recognised organisation (RO) under the CAA receiving a fee waiver or discount.</p>

Any form of proportionate ruling has its flaws.

A fee per fertile bitch/queen would be unfair due to the amount of litters and young per litter the varying breeds can have. For example, a Great Dane vs a Chihuahua. One produces more puppies than the other, and the selling costs of each puppy vary drastically. Therefore one breeder would benefit significantly more than the other.

When looking at the amount of fees already charged under the obligations of the CAA, then perhaps that should be considered to be the fees that apply, with those slightly adjusted, particularly for non-desexed animals, so as to encourage membership of an RO?

ACA notes the current varying levels of fees, and would recommend a simplification.

ACA also acknowledges the new system would require greater administrative functionality and workload and therefore has no objection to a small/nominal administrative fee rise to the current CAA fees in order to fund the new system. Again, members of RO's should only be required to pay this fee if receiving a waiver from the remainder of the CAA fees.

Members of RO's are subject to requirements to follow the organisations' Codes of Ethics (COE) and in most cases, the NSW Breeding Code of Practice – therefore providing greater incentives for dog & cat breeders to join an RO should be provided under any registration/licensing scheme.

Discussion Q2: At what threshold (e.g. fewer than a certain number of breeding animals), should a cat or dog breeder be considered an Exempt Breeder, meaning they are not required to hold a licence or comply with the Breeding Code?

Setting License Thresholds

ACA does not support any exemptions from the Code of Practice.

ACA does not support the segregation of breeders based purely on the numbers they keep and breed – a license for all, or a license for no-one is our preferred option.

However, ACA has no primary objection to a licensing exemption for members of RO's on the condition that exemption DOES NOT exclude them from complying with a legislated fit for purpose Code of Practice. This DOES NOT include a COE adopted or governed by any single RO, and must be authorised and legislated under POCTAA.

In Victoria, exemptions were provided to breeders with one or two breeding dogs. This essentially gave underground breeders the opportunity to flourish and supply puppies and kittens without any requirement of abiding by a COP.

Fit for purpose Code of Practice

The discussion paper refers to 'confusion among breeders as to whether they are a business or not'. The paper is misinterpreting the intent of previous comments relating to a hobbyist vs a commercial breeder.

The confusion predominantly sits with the RSPCA NSW statement that ALL breeders are commercial breeders – due to the fact any sale or transfer of an animal IS for a fee or reward.

In fairness to the RSPCA NSW, this interpretation stems from the fact the COP is listed in Schedule 1 of the POCTAA Regulations 2012 alongside other more acknowledgeable commercial entities. In addition the preface for the COP clearly includes any person breeding dogs or cats is subject to compliance with that COP. Those two points combined is interpreted as 'every breeder is a commercial breeder.'

The previous COP was also predominantly structured for commercial breeders and while the recent revision has revised the vast majority of misleading and unnecessary Standards it still does not sit as a fit for purpose COP.

ACA strongly recommends the COP must be revised to meet a format similar to that of the current South Australian model which provides for a 'tiering' of Standards (and Guidelines) commencing at the minimum standards for an indoor dog/cat, then a yard dog/cat, a kenneled dog and additionally ACA would recommend a 4th tier for large-scale/commercial breeders. This tiering of Standards sees the level of additional Standards increasing where Standards, such as physical records, enhanced biosecurity and staffing ratios is ONLY applied to the necessary breeders.

The tiered COP would still apply to everyone who keeps and breeds dogs and cats and each tier would include enclosure (or no enclosure) sizes that are situation based – for example, an indoor dog would have no actual minimum height sizes for an enclosure as the house itself is deemed to be the enclosure. Whelping animals would be able to utilise a bedroom (designated room – one whelping female & litter) without the need to have a whelping box Standard, and so on.

This would remove the monetary value of a fee or reward as being the focus of compliance and place the focus on a situational and species specific basis.

This will make it easier for a breeder and the compliance organisations to quickly assess what aspects of the COP are relevant and removes the current confusion and inappropriate Standards for ALL breeders.

Discussion Q3: At what threshold (e.g. more than a certain number of breeding animals) should a dog breeder be considered a Large Breeder, meaning they must hold a licence and comply with the Breeding Code?

Again, ACA does not agree with defining a large breeder for the purpose of licensing or having to comply with a COP.

However, given the Minister's intention is to license commercial breeders, ACA proposes the following definition:

i: commercial breeder means a breeder who derives the majority of their income from the breeding and sale of dogs and/or cats, and/or

ii: who holds more than 26 fertile dogs and/or cats

This definition has been determined by a range of factors, including recognised numbers in other states and countries, staff to animal ratios, as well as ensuring the suitability for responsible breeding by non-commercial breeders and preservation breeding.

A predominant factor for responsible breeding is allowing sufficient fertile females to cycle through a three-tier responsible breeding cycle. That is:

- Tier one: fertile females currently pregnant or ready to be pregnant
- Tier two: females with litters and/or in the process of weaning
- Tier three: females being rested as per requirements within the COP.

Discussion Q4: Do you think that working dog breeders should also be considered Exempt Breeders, meaning they are not required to hold a licence or comply with the Breeding Code?

Firstly no one seems to be able to define what a Working Dog Breeder actually is.

A breeder of Working Dogs can and does include people who are breeding working dog breeds for the sole purpose of sale as companion animals. The discussion paper mentions 'breeders of livestock working dogs' and accordingly ACA must presume that is intended to mean dogs actively worked and bred on a farming/agricultural property.

ACA finds it difficult to understand why the livestock dog would need to be exempt from a fit for purpose COP when the livestock its working are not exempt from various codes of practice?

Under ACA's proposed fit for purpose COP these dogs would be considered as yard dogs and would have the necessary housing and breeding Standards that should apply to any dog in the best interest of animal welfare.

It is beyond understanding why any person keeping dogs would seek exemption from worming, vaccinating, or microchipping their prized workers? Surely given their value on the land, these requirements would be welcomed and not disregarded?

Additionally, there are many working dog breeds now finding their way into homes as companion animals, being sold without microchips and unvaccinated and introduced into the community populations creating a greater problem, contributing to the spread of viruses as well as adding to the numbers in shelters when new companion owners fail to cope with the higher energy requirements of the dogs.

Let's face it farmers who breed their working dogs aren't keeping every pup in the litter – they are only keeping what they need. Those puppies being sold MUST be sold under the same legal requirements as any other dog in NSW.

Should a licensing system be introduced, ACA does not have an objection to a proven livestock working dog breeder/owner being exempt from licensing as long as that DOES NOT include being exempt from complying with a fit for purpose COP.

<p>ACA does not support the current exemptions for working dogs. Working dogs are being bred and sold as companion animals.</p>
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We thank you again for the opportunity to provide feedback and look forward to further consultation. Should you have any questions please do not hesitate to contact us.

Kind regards,

Michael Donnelly
President, Animal Care Australia.