

**Submission  
No 12**

## **INQUIRY INTO PUPPY FARMING IN NEW SOUTH WALES**

**Organisation:** German Shepherd Dog Council of Australia

**Date Received:** 6 March 2022

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### AREA OF CONCERN

This is a Member's bill developed by a political party openly professing almost evangelistic zeal to abolish companion animal ownership in NSW. The agenda makes this bill a spring board to achieve these objectives.

When drafting this bill, we believe that there was no or little community consultation in the drafting process.

The Deputy Chairperson for the Committee of Inquiry is the proposer of this amendment and we do not believe this to be correct process, even if only in terms of perception

There is a distinct disregard for scientific and data supported evidence in this amendment proposal. It is pitched along emotive lines and lacks clear support of modelling to suggest that it will deliver the desired result for puppies and kittens.

### THE DEVELOPMENT PROCESS AND OTHER ADMINISTRATIVE MATTERS

We attach a copy of a document (Attachment 1) that has been widely circulated on the internet. We are unable to absolutely confirm it as a publication of the Animal Justice Party, but feel it to be authentic.

When the proposed amendment is read in conjunction with this document, it is apparent that there is no transparency of agenda for this organisation.

We do not believe that this proposal enjoys the support of the residents of NSW and query how it can have reached this point without consultation other than a Committee of Inquiry and submissions. The general population has not been made aware of the implications for their future companion animal ownership, would not be aware of the submissions process and will be left wondering how all of this has happened if these amendments are enacted.

Given the very well publicised views of the proposer, Ms Emma Hurst, we challenge her ability to remain objective in this instance.

As a member of the parliament of NSW, Ms Hurst is being paid to represent the views of all constituents and we would argue her stated public position leaves no doubt of her inability to do so.

We would challenge her position on the Committee as compromised and having a vested interest in promoting a favourable result for her proposed amendment.

In a single subject area, we offer scientific evidence against one proposal within the proposed amendment – a document produced by Professor Claire Wade in regard to the number S.61 ZF of the proposed amendment. We would suggest that this reflects the level of ill-informed emotional response evident throughout this document.



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Were we to review all of the contrary evidence in this case, there would be no doubt of how unsupported this proposition is in scientific terms.

This lack of supporting evidence or modelling to prove a benefit persists through the Amendment.

The presumption that all those who are breeders must be Puppy Farmers

We believe that this amendment is deliberately titled Companion Animals Amendment (Puppy Farms) Bill 2021 and then deliberately avoids a definition of what a “Puppy Farm” is in order to create an umbrella under which any person breeding a companion animal can be vilified.

The lack of regulation documents

To our peril, in the past, we have failed to appreciate the relationship between “Acts” “Amendments” and the regulations that follow. We would argue that both proposed legislation and regulations need to be presented together in order to appreciate the full implications of the proposal. Not having these together could be likened to agreeing to marry, but not knowing to whom!

As an example, we offer  
**61X Business information register—  
inspection by permitted officers**

*The following persons may inspect the  
business information register—*

*(g) another person prescribed by the  
regulations*

*Who are these people and are there to be  
no limits to their power?*

The regulations are not available and this amendment cannot be truly assessed for impact without them.



### AREA OF CONCERN

There are multiple Acts in this area including, but not limited to:  
Prevention of Cruelty to Animals Act 1979 (NSW),

Prevention of Cruelty to Animals Regulations 2012 (NSW),

NSW Animal Welfare Code of Practice: Breeding Dogs and Cats

Currently in development:

The Draft Animal Welfare Bill 2022

Are these all to be repealed and substituted and if not all, which are to be deleted.

This list also does not include the Act being amended, the Companion Animal Bill 1998.

### THE MINEFIELD OF LEGISLATION IN THIS SECTOR

This landscape is cluttered with Acts and then of course the applicable regulations for each. They make this one of the most over regulated and complex areas for any reasonable person to navigate.

We argue that whilst ignorance of the law is no defence, the addition of the amendment makes this an impossible tangle that only legal practitioners could navigate.

The average person could not mount a legal defence on the basis of cost alone.

This will multiple convictions purely on the basis of accusation and inability to afford legal fees. It needs to be remembered that there are provisions within the draft for Criminal convictions, leading to criminal records that will affect the capacity of the offender to earn a living, travel overseas or engage in many other activities within civil society.

**This creates a process that denies natural justice.**

Where warranted, we do not object to severe penalties, but the minefield in NSW suggests that there will be many wrongful convictions and lives destroyed because of legislation that is not cohesive and clear and the total lack of the community to influence the regulatory process as it is carried out by public administrators.

### AREA OF CONCERN

It is unclear whether or not the Office of Local Government has been consulted on this expansion of their workload under this amendment.

### THE ENHANCEMENT OF THE POWERS OF LOCAL GOVERNMENT REGULATORY OFFICERS TO ENTER AND INSPECT RESIDENTIAL PROPERTIES

The NSW Office of Local Government does not necessarily have the capacity to add this workload to its administrative burden.



It is also unclear whether there will be any qualifications required of officers attending residential properties to assess animal breeding suitability of the premises. This would be a specialist skill, not covered by regulatory training or planning background.

Further it is unclear as to whether or not the scope of the inspection will be limited to only those areas being used for breeding purpose or whether the officer will have the capacity to roam at will through a private home.

We query also their capacity to manage the data upload envisaged under this bill and what privacy protection and data security would be available to our breeders.

As this appears to be an annual process of inspection, we have grave concerns about the level of costs that will be levied by the Office of Local Government to undertake this work. Again, this is a situation of not informing those to be subject to a law honestly and with transparency about the full impacts of a piece of legislation

Currently, regulatory officers working in local government are required to conduct inspections and approvals for food outlets, brothels, work on tree offences, attend dog attacks and manage stray or injured animal reports, issue notices for parking offences, attend noise reports and many other random regulatory tasks. We find nothing in this list that leads us to believe that they are qualified to assess and approve a home or business for breeding purposes or more than very basic animal welfare issues in emergency situations.

We argue against any assumption that they can and also argue that if this proceeds a minimum standard of criteria for employment would need to be established and a permanent qualified workforce retained to deal with inspections created. This will add to the probable costs of inspections, making decent breeders less likely to continue.

Put quite simply, convicted criminals will have more rights than a “breeder” whether commercial or micro!

#### AREA OF CONCERN

*For example:*

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

#### THE PROVISIONS IN THIS AMENDMENT THAT ARE CONTRADICTORY

##### **61E Meaning of “companion animal breeding business”**

(1) For the purposes of this Part, a companion animal breeding business means an enterprise that—  
(a) carries out the breeding of dogs or cats for sale, and



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(b) has, at any one time, no less than 3 fertile female dogs or 3 fertile female cats, including a dog or cat that is the subject of a breeding arrangement.

Having been deemed to be a “companion animal breeding business” suggests that if this were occurring in an approved residential property, it would necessitate that attendance would be required 24/7 to supervise the companion animals on site.

This is ludicrous – and would be totally unenforceable, unless the intent of the extension of powers of entry was that regulatory personnel could call at will.

We use these two sections of the proposed amendment to illustrate just how poorly drafted this has been, how restrictive it would be, how it will drive decent breeders out, leaving a vacuum in supply of companion animals which would logically be filled by those willing to flaunt compliance – the real puppy farmers.

In fact, as an organisation with real data collected over 50 years to support our argument, we would suggest that **S 61ZF (b)** is not supported by evidence of causing harm. The German Shepherd Dog was known for producing hip dysplasia. Over 50 years of mandated screening we have reduced the incidence to minimal occurrence. We started with hip scores of 30 and are now sitting in the regions of 11. This sub section also ignores the fact that it takes two partners to produce a litter, both contributing to the outcome and that responsible breeders when they are aware of a problem would not repeat a pairing.

The scheme referred to has many decades of scientific evidence to offer and was voluntarily started and regulated, yet the proposer of this amendment chooses to ignore the facts.

Illustrations like this can be found throughout this bill and we suggest they support the view of another agenda – creating legislation that is unfair and



focussed on driving companion animal  
breeding to extinction

## AREA OF CONCERN

Commercial – v- Hobbyist

## THE FAILURE TO RECOGNISE ALL STAKEHOLDERS IN THIS SECTOR

Arguments against the hobbyist being considered “non-commercial” generally focus on the profit / gain motivation and on the surface, the metrics of those arguments look convincing, until you unpack the premise.

In the context of the Companion Animal Amendment (Puppy Farms), we examine and refute the arguments below:

1. The argument: *If you have two breeding bitches, you breed them twice a year and sell the puppies for in some cases \$7,000 or \$ \$8000, you could have an income of over \$110,000 per annum. (proposed as the anecdotal argument)*

Firstly, those of us who choose to belong to a self regulating organisation are bound by rules that:

Mandate minimum breeding age, maximum breeding age and frequency of breeding

These calculations would be good indicators **except that** litters are not uniform in size and small litters are not uncommon.

This does not take to account the fact that as females age, fertility and therefore litter sizes diminish.

Were the hobbyist activities motivated profit, then all of the older animals in a kennel would either have been destroyed as being past their productive life or placed for the same reasons A survey of most hobbyist kennels will show that there is a fair representation in most of older animals, past breeding but who are loved and supported throughout their natural life and remain in that kennel.



And what of the situation where a female produces a litter of one dead puppy by caesarean in the middle of the night. The veterinary costs and the costs of supporting her recovery can be crippling unless retained revenues have been set aside to cover such contingencies.

Were there any evidence to support the fact that significant profits and income were being generated by the hobbyist, we are confident that the Australian Taxation Office would by now have been there to collect! They have not, because after the costs of maintaining a breeding animal properly and raising a litter well, hobbyist breeding could well be regarded as a “money pit” and simply not worth the ATO’s time and effort.

2. The argument: *That two breeding bitches should be enough to maintain a hobbyist kennel.*

A major factor in having more than two females is to insure diversity and breed resilience. The majority of hobbyist breeders breed each generation to improve on what they have, incrementally, each generation.

Quite simply, much of the activity of the hobbyist sector is focussed on advancing a breed and eliminating any faults as they arise. To do this, more than two breeding bitches are required, particularly as a contingency against the emergence of any hereditary issues becoming apparent.

And, in relation to hereditary faults becoming evident in a litter and this amendment mandating the discontinued breeding of that female, it should be noted that two parents are required to produce a litter. The fault may not necessarily be the female alone. It may have been introduced by the male.

The hobbyist, because of their affiliation to self regulating organisations will firstly be aware of the prospect of inherited problems and will wherever possible screen against these. They will do so on the basis of





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generational data kept and made available by self regulating organisations.

Commercial operators will generally not have access to this as given the random nature of some of the pairings being undertaken. They will choose to regard the need to refund or compensate a purchaser of an animal with a heritable problem as the cost of doing business.

It can be argued that in the commercial market, one could have two animals, one male and one female, where the female is bred every six months to the same male, beginning at 9-10 months and continuing to say 7 years. Rough calculation, this would result in twelve litters.

**This is the real animal welfare concern! Under the proposed amendment, this person will be within the “micro breeder” range.**

For the hobbyist, regulated as they are, the comparable output would be in the regions of half, with the likelihood that several different sires have been used and the necessity to register and comply with a Code of Ethics and be accountable for their activities. There are no real parallels here.



## IN SUMMARY

- We believe that this amendment will drive out the legitimate caring breeders and create an illicit market in this sector.
- Our view is that far from supporting the welfare of animals being bred and bred from, this will result in worsening outcomes that cannot be managed because they will be hidden from view.
- We argue that this amendment presents gross overreach and an absolute assault on personal freedoms within the community. Further, it assumes that all those involved in breeding companion animals must somehow be at fault, when our members, if permitted, could provide thousands of testimonials of the quality of care that puppies and kittens bred in our ranks have had.
- This amendment only highlights the lack of action under existing legislation by those charged with the welfare of animals. We are all aware of the secretive nature of the true offenders and the frustrations of the welfare sector in prosecuting offences. Perhaps a better approach for reform would be to provide improved resources for the collection of evidence of culpability and increased support for action against the alleged offenders when there is sufficient cause and grounds. Only then could you improve judicial outcomes and resolve on this area of offence, because prosecutions would be would be evidenced and supported by due process.
- The absence of any clear definition of what qualifies as “Puppy Farming” demonstrates intent to destroy the hobbyist and their activities. It leaves this amendment as a vehicle for subjective interpretation.
- The ultimate outcome of this amendment will be to remove any choice of companion animal from the NSW consumer. Over time, it will reduce availability of animals available to the community, restrict choice of companion animal and may well result in animals ill-suited for re-homing going into the community with disastrous results.
- There are economic impacts for NSW when the envisaged shrinking of available animals occurs. This would be compounded by the flow on to multiple industries across the state and Nation.
- This amendment offers no evidence for any of the need for any of the draconian measures proposed.
- This amendment will lead to massive increases in costs of administration and implementation for this amendment.
- The regulatory powers being passed to an unqualified and already overworked group of regulatory officers suggest poor results.
- The scope of the personal information required to have licencing and premise approval are on a par with those required for child-care centres. There are no assurances of data security and unacceptable risk factors for those providing information.
- There is a prominent lack of appeals process or external oversight of the operation of this specific group of amendments to the Companion Animals Act 1998 and we would we maintain that this a fundamental right for any one being governed by such restrictive conditions.
- There is a prevailing attitude that we are all living the “high life” on the basis of dog / cat breeding. This quite simply is not true. For the majority of us, a great deal of our earnings is invested into our dogs to ensure that their welfare and health. Any profit we receive from puppy or kitten sales are immediately swallowed up the costs of maintaining and improving our animals as they should be kept. We take our responsibilities very seriously; we love our animals and WE ARE NOT THE PROBLEM.



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- We have earned the right to be considered differently in any animal welfare legislation and can prove why we make this claim.
- Those who belong to self-regulating organisations choose to do so, because at the centre of their hobby, animal welfare is the primary concern. The majority do the best they can to improve and advance the. Many engage in other activities with their animals and are supported by DOGS NSW and the GSDCA to do so.
- We acknowledge that there will always be those sharp operators who skirt the requirements, but these are quickly found out and between peer pressure and regulatory pressure, they are very quickly ostracised.
- We have a proven track record of achievement, decades of knowledge and experience and for most of us, animal reproduction is a cost, not an income producer. Many work to support their hobby.