

**INQUIRY INTO ANIMAL WELFARE POLICY IN NEW
SOUTH WALES**

Name: Name suppressed

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Partially
Confidential

ANIMAL WELFARE REFORM

To: NSW Department of Primary Industries
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The Draft Animal Welfare Bill 2022

Introduction

I welcome the opportunity to provide feedback on the Draft Animal Welfare Bill 2022.

I am currently completing a law degree, and I have a passion for animal law and advancing the interests of animals through law reform. I have been engaged as an intern with the Animal Defenders Office since 2018. Prior to that, I worked in the animal care field for over a decade - as a programs coordinator at Four Paws, and as an animal attendant and veterinary nurse at the RSPCA in Yagoona.

Supported Provisions in the Draft Animal Welfare Bill 2022

- Section 8(b) and 11(c), which include the psychological condition of animals within the meaning of 'harm' and 'aggravated cruelty'.
- Section 13 and 14, which establish minimum care requirements for animals, including taking into account their behavioural needs. However, this must apply to all animals (see below).
- Section 20(1), which requires that a person in charge of an animal must comply with animal welfare standards.
- Schedule 4, which would ensure that the RSPCA and AWL (enforcement agencies) are subject to freedom of information laws, specifically the *Government Information (Public Access) Act 2009* (NSW).

Opposed Provisions in the Draft Animal Welfare Bill 2022

- Animal sentience has long been recognised by science¹ and the failure to acknowledge animal sentience in the bill is a rather out-dated decision and not in line with contemporary laws in Australia, for instance in the ACT and other countries, such as the UK, NZ, and the EU. The Bill must explicitly acknowledge in its objects clause, section 3, that animals are sentient and have intrinsic value.
- There should be no gap in the Bill which results in people being able to comply with animal welfare 'standards' that are lower than the minimum care requirements in the Bill (Part 3, Division 1). Thus, sections 18(3)(a) and 20(2) should be removed from the Bill. While section 18(3)(b) is too general and requires more detail to ensure animals are not imprisoned in

¹ Helen S Proctor, Gemma Carder and Amelia R. Cornish, Searching for animal sentience: A systematic review of the scientific literature, 2013; <https://fcmconference.org/img/CambridgeDeclarationOnConsciousness.pdf>.

enclosures that cannot meet their psychological and behavioural needs (as outlines in sections 13 and 14).

- The offence of abandoning animals is too broad, it could result in criminalising letting a stray dog out of a person's back yard or desexing stray cats. Thus, section 27(2)(a)(ii) of the Bill ('intentionally allowing the animal to escape') should be removed.
- The exclusion of birds in section 29 of the Bill should be removed. It is arbitrary to exclude birds from the requirement to alleviate harm to animals struck by vehicles.
- The exclusion of non-domestic animals from the offence of poisoning animals, the offence should be broadened to apply to all animals. Thus, the reference to 'domestic' in section 30 of the Bill should be removed.
- The exemption of rodeos from the prohibition on animal fighting in the Bill. Sections 32(2)(a) and 32(3) should be removed.
- The proposed offences involving 'animal cruelty material' are too broad and could capture people who are exposing animal cruelty, such as whistle-blowers, and concerned members of the public. These proposed offences are also unnecessary because possessing obscene material such as crush or bestiality videos are already offences under the Crimes Act. Thus Division 5 ('Animal cruelty material') should be removed from Part 4 of the Bill.
- Backyard breeding must be explicitly specified as a commercial activity in section 66 of the Bill so that inspectors can investigate properly.
- If there are to be any exemptions, they must all be subject to a 'no unnecessary harm' requirement, as in section 119 of the Bill. This would mean that conduct can only be exempted if it inflicts 'no unnecessary harm' on an animal.

Additional Comments

Part 6 Stock welfare panels

Stock Welfare Panels should not be a separate process to other enforcement activities. They should not in any way be a substitute for the powers of authorised officers to conduct audits, investigations and lay charges.

Animal cruelty, irrespective of species or context, is a criminal matter not a regulatory compliance issue or an issue where you can simply choose to take an 'educational approach'. Animals exploited for profit should not be subjected to a separate process, where perpetrators receive leniency, they should be covered by the same protection mechanisms as other animals.

Setting up these stock welfare panels before any action is taken and then engaging in the issuing of 'official warnings' and 'reports' of non-compliance to the Secretary will only prolong animal suffering and delay the provision of care that animals who are suffering require.

Further, this can obscure numbers in terms of cruelty reporting and cases, where neglect and cruelty of animals is not reported to authorised officers but rather is dealt with by the Secretary and stock welfare panels.

Further points:

- Painful procedures on farmed animals such as dehorning, castrating, ear tagging, Mulesing, and branding should be added to the list of 'restricted procedures' in Schedule 1 to the Bill so that pain relief is mandatory.

- Trimming the beaks of hens should be listed as a 'prohibited procedure' in section 22 of the Bill.
- A stand-alone offence to ban pig-dogging should be added to Part 4, Division 2 of the Bill. It could be modelled on the ACT's ban on 'violent animal activities' in the *Animal Welfare Act 1992* (ACT), section 17.
- The Bill should allow people to rescue animals locked in vehicles in hot weather, as in the *Animal Welfare Act 1992* (ACT), section 109A.
- The Bill should establish an independent office of animal protection to administer and enforce the Bill.
- The Bill should establish an animal cruelty offenders register accessible to relevant entities.