

INQUIRY INTO PUPPY FARMING IN NEW SOUTH WALES

Organisation: Local Government NSW

Date Received: 4 March 2022



MAR
2022

DRAFT SUBMISSION

INQUIRY INTO PUPPY FARMING IN NSW

Local Government NSW (LGNSW) is the peak body for local government in NSW, representing NSW general purpose councils and related entities. LGNSW facilitates the development of an effective community-based system of local government in the State.

OVERVIEW OF THE LOCAL GOVERNMENT SECTOR



Local government in NSW employs more than **55,000 people**



Local government in NSW looks after more than **\$136 billion of community assets**



Local government in NSW spends more than **\$1.9 billion each year on caring for the environment, including recycling and waste management, stormwater management and preserving and protecting native flora and fauna**



NSW has 450 council-run libraries that attract more than **34.8 million visits each year**



Local government in NSW is responsible for about **90% of the state's roads and bridges**



NSW councils manage an estimated **3.5 million tonnes of waste each year**



NSW councils own and manage more than **600 museums, galleries, theatres and art centres**

TABLE OF CONTENTS

4	Opening
4	LGNSW General Comments
5	LGNSW Advocacy Priority
7	Response to selected Terms of Reference
7	ToR (d): the adequacy of the current legislative and enforcement framework, including the Animal Welfare Code of Practice - Breeding of Dogs and Cats
8	ToR (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
8	ToR (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
9	ToR (i): the challenges faced by local councils in respect to development applications for puppy farms
10	Conclusion

OPENING

Local Government NSW (LGNSW) is the peak body for local government in NSW, representing NSW general purpose councils and related entities. LGNSW facilitates the development of an effective community-based system of local government in the State.

LGNSW welcomes the opportunity to provide input to the Parliamentary Inquiry into Puppy Farming in NSW. Concerns within local government over animal welfare issues and the scale and extent of mass dog breeding facilities has grown year on year. Evidence of this can be seen through the increasing number of motions to the LGNSW policy-setting conference.

Councils' role as planning authorities that assess development applications for these facilities, and as regulators of the *Companion Animals Act 1998*, means they are seeing the 'before' and 'after' effects of inadequate legislation and feel they are hamstrung by the existing legislative framework, particularly in relation to planning assessment of breeding facilities.

This is a draft submission awaiting review by LGNSW's Board. Any amendments will be forwarded in due course.

LGNSW General Comments

In 2015 the Joint Select Committee on Companion Animal Breeding Practices in NSW was formed for a parliamentary inquiry into companion animal breeding practices across the state to crack down on so-called "puppy farms".

The objectives of the inquiry were to review the current situation in NSW compared to other jurisdictions; investigate the correlation between the number of animals kept by breeders and animal welfare; examine the necessity of implementing a breeders' licencing system; examine the implications of banning sales of dogs and cats in pet stores; address any required legislative changes; and address any other related matters.

The 2015 Committee affirmed that the NSW Companion Animal Taskforce Report 2012 recommendations remained sound and that the NSW Government should implement the recommendations as a priority. However, implementation has been slow and we are now seven years down the track, still waiting on several recommendations to be actioned, and responding to yet another Parliamentary Inquiry.

LGNSW calls on the current Inquiry to reinforce the need for the NSW Government to action and implement the recommendations of the 2012 and 2015 reports. Councils can only uphold the standards and requirements set by the legislative framework, and there is currently a mis-alignment between broader community expectations and what the legislative framework enables.

LGNSW ADVOCACY PRIORITY

The LGNSW [Policy Platform](#) consolidates the voices of councils across NSW, reflecting the collective positions of local government on issues of importance and guiding LGNSW in its advocacy on behalf of the local government sector.

Position 13.7 of the Platform advocates for legislation to prevent the establishment of puppy farms in NSW and a common database and better coordination between enforcement agencies across jurisdictions.

At the 2020 LGNSW Conference members supported the motion proposed by Hawkesbury City Council below.

That Local Government NSW:

1. Notes that:

- a) animal welfare and the care and control of companion animals are state responsibilities in NSW but that these responsibilities are largely met by local councils,*
- b) unscrupulous breeding in puppy farms financially impacts on councils due to increased compliance costs and shelter, rehabilitation and rehoming costs, and*
- c) puppy farms are cruel and inhumane.*

2. Notes that:

- a) the Domestic Animals Amendment (Puppy Farms and Pet Shops) Act 2017 (Vic) prohibited the sale of breeders' puppies in pet shops and restricts the number of fertile female dogs kept by breeders in Victoria,*
- b) Victoria's tougher regulations resulted in large-scale breeders indicating they are seeking sites in NSW to continue their activities, and*
- c) there is significant community concern that puppy farms have moved their operations to NSW to avoid regulation and scrutiny.*

3. Urges the NSW Government to strengthen NSW Legislation to:

- a) transition pet shops to registered not-for-profit adoption centres to rehome dogs and puppies from approved rescue organisations and shelters,*
- b) limit animals kept by breeders and owners, including by limiting numbers of fertile female dogs on premises,*
- c) ensure breeder identifications numbers are required for all litters, including the removal of loopholes for "one-off litters", and*
- d) instigate a common database and better co-ordination between enforcement agencies across jurisdictions.*

4. Notes that euthanasia is a significant concern to councils and residents across NSW and is an animal welfare issue, and urges the NSW Government to act to reduce the rates of unwanted and abandoned animals by:

- a) funding free desexing programs and education programs for pet owners, especially in areas with high dumping rates, and*
- b) supporting more "pet-friendly" rental accommodation.*

At the recent 2022 Special Conference (held 1 March 2022) the following motions from Murray River Council and Orange City Council were also endorsed:

That LGNSW advocate the NSW Government to strengthen:

- 1) the Code of Practice for Breeding Cats and Dogs and*
 - 2) the planning legislation assessment requirements for breeding facilities,*
- so that both align with requirements for puppy farms in Victoria.*

That Local Government NSW calls on the State Government to urgently review the issue of large-scale mass dog-breeding facilities in NSW, including the need for legislative reform and greater oversight by the Government to overcome the issues that councils currently face when considering development applications for such facilities.

Response to selected Terms of Reference (ToR)

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

Councils have raised concerns over the limitations of the current legislative and enforcement framework via motions to LGNSW's policy-setting conference in recent years. In 2017 councils resolved to call for the Animal Welfare Code of Practice to be updated to incorporate the improvements recommended by both the NSW Companion Animals Taskforce Report (2012) and the Joint Select Committee on Companion Animal Breeding Practices in NSW 2015.

As outlined above, the recent 2022 Conference also resolved to support motions advocating for a strengthening of the *Animal Welfare Code of Practice – Breeding dogs and cats (the Breeding Code)* and the planning legislation governing how breeding facilities development applications are assessed.

There is currently no standalone land use for 'animal breeding' within the Standard Instrument LEP under the *Environmental Planning and Assessment Act 1979*. Councils must therefore consider any animal breeding establishments as falling within the land use of 'animal boarding or training establishments' when assessing a Development Application. This bundles together types of development with quite different considerations. For example, animal boarding establishments must comply with a different Code of Practice to the animal breeding establishments (NSW Animal Welfare Code of Practice No 5 – Dogs and cats in animal boarding establishments).



Recommendation 1: The NSW Government amend the planning legislation to include a land use category of 'animal breeding establishments'.

A second issue for councils is that the planning legislation does not refer to the Breeding Code, thus limiting councils from using the Code requirements in their assessment of development applications. In contrast, 5.18 of the Standard Instrument LEP relating to intensive livestock agriculture includes a requirement to consider "(g) whether the applicant has indicated an intention to comply with relevant industry codes of practice for the health and welfare of animals".



Recommendation 2: Compliance with the *Animal Welfare Code of Practice – Breeding dogs and cats* should be referenced within the Standard Instrument LEP as an assessment consideration for animal breeding establishments.

Even if the Breeding Code was referred to in the legislation, the current provisions in the Code are not strong enough or detailed enough to enable councils to use them to distinguish between good and poor development applications for breeding facilities and condition them appropriately.

The Breeding Code needs to be strengthened in line with the recommendations of the 2012 Taskforce and 2015 Joint Select Committee, and aligned with requirements in Victoria, particularly in relation to limiting animal and breeding numbers, limiting when dogs can be first bred and the number of breeding

cycles.



Recommendation 3: Strengthen the *Animal Welfare Code of Practice – Breeding dogs and cats* to align it with requirements in Victoria, such as limiting animal numbers and breeding cycles.

While it may be technically possible for a council to impose a DA condition that requires regular (eg quarterly) RSPCA checks, in some cases the nearest RSPCA office is 6 hours away and such a condition could be open to challenge.

ToR (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

As stated in (d), local government resolved in 2017 and again in 2022 for actions that were recommended by the 2015 Joint Select Committee to be implemented, indicating that not all recommendations have been actioned. LGNSW notes there were some recommendations that the Government did not support or only partially supported, and that this may explain why these actions are not complete.

LGNSW also notes that consultation on a proposed dog breeder licensing scheme closed in December 2021 “in response to increased reports of puppy factory activity driven in part by unprecedented demand for pets during the COVID-19 pandemic”. The Joint Select Committee recommended implementation of breeder licensing scheme (Reccs 10 and 11). Such a scheme may assist councils in verifying the credentials of proponents when assessing development applications for breeding facilities, however it should be noted that the planning legislation would also need to be amended to enable this information to be considered.

ToR (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

Over the past 3 years Murray River Council, which is on the border with Victoria, advises it has received a number of enquiries for medium-large puppy farms in its local government area as a direct result of the tightened legislation and regulations in Victoria.

As outlined in (d) above, the lack of legislative ability to draw on the Breeding Code requirements, nor consider whether the proponent is a fit and proper person in assessing a development application, limits the ability of councils to refuse facilities that they would otherwise consider to be of concern. As a result, some NSW councils have advised that a number of large-scale puppy farms have been legally approved in their areas.

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

Councils are reporting that mass dog breeding facilities are a growing issue in NSW following the introduction of tougher regulations in Victoria and Western Australia to stop the overbreeding of dogs. NSW is regarded as having weaker animal protection laws than neighbouring states.

Councils are concerned by the significant animal welfare issues that can arise with poorly managed puppy farms due to the lack of exercise and pressure on the body of female dogs to produce repeat litters. Many breeding dogs suffer from painful health conditions such as eye infections, ear infections, mammary tumors, hip dysplasia and skin infections.

Puppy farms can also have significant financial implications for councils as they implement regulatory functions under the *Companion Animals Act 1998*, as puppy farms can increase demands on council to monitor their operations and address complaints. Therefore it is critical that councils are given appropriate legal footing to properly assess and condition breeding facilities so that they are well-run by fit and proper persons.

Councils are required to assess development applications (DA) in accordance with the matters set out in section 4.15(1) of the EP&A Act. Although a council can take into consideration submissions made by the public there is an obligation on the council to ensure that they assess the DA in accordance with planning principles. While there may be social or moral reasons raised by individuals making submissions (eg previous convictions of animal cruelty in other States) there would be a risk to council to refuse the DA if the applicant otherwise satisfied the other matters set out in section 4.15(1).

Council can take into consideration public interest under section 4.15(1)(e) however the issue again is that if this (even if coupled with the submissions made) is the sole basis for refusing the DA and the applicant otherwise satisfies the other matters set out in section 4.15 there is a risk to council that the applicant could appeal the decision.



Recommendation 4: The NSW Government clarify and broaden the information that can be taken into consideration when assessing development applications for animal breeding establishments, including addition of a 'fit and proper person' test.

In recent years the above issues have been raised by councils with relevant NSW State Government agencies. Councils were informed that a revised code of practice and higher penalty points for cruelty acts against animals were proposed to address this issue. However, the new Breeding Code (August 2021) and legislative amendments have not altered how a puppy farm application is assessed under the NSW planning system, and councils remain hamstrung.

Conclusion

LGNSW appreciates the opportunity to make a submission to this Parliamentary Inquiry. Concerns within local government over the number of mass dog breeding facilities and associated animal welfare issues has continued to grow. It is local government's view that the demand for establishing facilities in NSW has been driven by the weaker laws in NSW (compared to other States) and the high demand for puppies during the COVID-19 pandemic.

Councils are calling for stronger controls on mass breeding facilities (both at approval stage and during operation) that place NSW on par with its neighbouring States, consistent with the recommendations of the 2012 Companion Animals Taskforce and 2015 Joint Select Committee. Amendments to planning legislation, including reference to a strengthened Breeding Code, that clarify the considerations and controls expected of breeding facilities is also sought.

For further information, please contact , Strategy Manager – Environment.
