

**Submission
No 220**

INQUIRY INTO PUPPY FARMING IN NEW SOUTH WALES

Organisation: Master Dog Breeders and Associates

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6th March 2022

The Hon. Mick Veitch (ALP, LC Member)

Chair, Select Committee on Puppy Farming in New South Wales

Parliament of NSW

The Master Dog Breeders and Associates [MDBA] thanks you for the opportunity to provide feedback to the Companion Animals Amendment [Puppy Farm] Bill 2021.

The MDBA is a strong advocate for the proper welfare and protection of dogs and puppies. We fully support the position that all dog breeders should be held accountable for their actions. The MDBA maintains that dog breeders who keep and breed dogs in substandard conditions [the standard being The Code of Practice for Breeding Dogs and Cats], regardless of how many dogs they have or their stated reasons for breeding, should be easily located, policed, and shut down if they do not meet the standards.

The MDBA is an Approved Organisation in NSW under local government legislation, with breeder members in every state and territory within Australia. We have approximately 7350 Members in NSW with 1762 of these having a breeding prefix.

We require MDBA members who reside in NSW and breed dogs, regardless of how many dogs they own or breed, to comply with both the Prevention of Cruelty to Animals Act 1979 and the Companion Animals Act 1998 and their related Regulations as well as the NSW Animal Welfare Code of Practice – Breeding Dogs and Cats. All NSW MDBA members must acquire the requisite Planning Permits and Licenses that enable them to pursue their hobby of owning and breeding dogs in compliance with the MDBA Code of Ethics.

Members who fail to comply with these requirements incur disciplinary action.

The MDBA is also an Applicable Organisation in Victoria, where we are responsible for compliance requirements for our members who have ten fertile females or less. Given our experience with legislative and code compliance across multiple jurisdictions means we are well placed to comment on the Companion Animals Amendment [Puppy Farm] Bill 2021.

Our feedback on the Companion Animals Amendment [Puppy Farm] Bill 2021 is as follows.

1. The term “Puppy Farm” has a variety of definitions, clearly demonstrated by the definition given by Hon Emma Hurst in her second reading speech when she defined it as ‘the intensive factory farming of dogs to supply the pet trade industry.’ The MDBA cannot find a definition within this bill which defines a puppy farm or puppy factory. When MDBA members asked parliamentarians who will be asked to vote on this legislation to define a “Puppy Farm” (so the member could respond to this amendment bill) not one could/would do so. Both terms – Puppy Farmer and Puppy Factory – elicit negative emotional responses and we are not convinced that anyone providing feedback know exactly what this Amendment is attempting

to regulate. For the purposes of our feedback, we have chosen to use the RSPCA definition of Puppy Farming - 'an intensive dog breeding facility which is operated under inadequate conditions that fail to meet the dogs' behavioural, social and/or physiological needs.'

We note that in three state parliamentary inquiries; NSW, Victoria, and South Australia, it has been proven that numbers alone do not equal good welfare outcomes and the vast majority of those actually involved in the industry agree with this.

2. The Companion Animals Amendment [Puppy Farm] Bill 2021 has the STATED objective to regulate the conduct of businesses breeding companion animals. However, in its current form it appears to us that the actual outcome is to make it illegal for anyone to own more than ten fertile females even if those dogs do not reside on the breeder's property or they are not used for breeding. It stops anyone who breeds dogs from owning another companion animal related business.

Our concern is that there is a major difference between regulating an activity and making it impossible for that activity to continue and be sustainable. This is more like limiting the industry out of being sustainable rather than regulating the industry.

3. The Companion Animals Amendment [Puppy Farm] Bill 2021 does not address modern issues associated with the breeding, rearing and sale of dogs in NSW. Breeders who operate intensive breeding facilities and keep dogs in substandard conditions are a tiny minority and the problem does not justify such radical legislation.
4. As this Bill is written, it is difficult to understand if it is about regulating the premises over and above other regulations, i.e., zoning and POCTAA laws or the breeder over and above POCTAA laws. From 6A to 61J the requirements are all about the premises and yet in 61. it switches to the applicant needing to pass discretionary and mandatory grounds which can be used to refuse an application, even when the premises are approved by zoning, council, and the Chief Executive, and the person has not been found guilty, or accused of animal cruelty.
5. The Companion Animals Amendment [Puppy Farm] Bill 2021 is silent about the problem of rogue underground operators who breed dogs in substandard conditions, it is a simplistic legislation that will only punish and overregulate those who are in plain sight and who are trying to be compliant with all laws and regulations. It does not address modern problems associated with the breeding or sale of dogs.
6. Limiting numbers and overregulating those who have between 3 and 10 fertile females makes it impossible for any breeder working to improve a breed to have any impact in their breeding programs. This means more dogs suffer now and for generations to come.

1. Part 6A regulation of Companion Animals Businesses

Division 1

Section 61 B. 2.

Meaning of Breeding Arrangement.

We are at a loss to understand why any government would want to interfere or dictate contract terms between a dog breeder and any person they may deal with. This is over reach and impinges on both party's rights.

Section 61 C. 2.

A business code of practice made by a Departmental Chief Executive.

Under the Prevention of Cruelty to animals Act 1979 and the Code of Practice Breeding Dogs and Cats published by the Department of Primary Industries all of these things are already regulated. This replicates existing legislation.

61 D. Meaning of Companion Animal Business

Rescue, rehoming and shelters/pounds, foster carers etc, must be included in this section as they are businesses that deal with animals that have no other purpose than to be companion animals.

There are some in this category who deliberately breed their rescue dogs and these categories of Companion Animal businesses, under this legislation, are given a monopoly in where they can sell their animals, and they are not restricted in numbers, or assessed as fit and proper, under discretionary powers.

61 E. Meaning of a Companion Animal Breeding Business

A dog or cat that has no other function or purpose other than to be a companion to a person is a companion animal. At one year of age, if the dog or cat is not desexed, it has another function – that of a breeding dog or cat which is legislated under POCTAA. A Companion Animal Breeding business should be defined as those who engage in the activity of breeding, rearing, or selling dogs or cats for companion homes, regardless of how many fertile dogs they own or whether the parent dogs are working dogs or used for any other purpose. This should be left under the jurisdiction of the DPI and policed under POCTAA.

Division 2 - Registration of Companion Animal Business premises.

61F -61N. Currently every person who wants to be involved in the activity of breeding dogs on their property in NSW must apply for Development Application approvals under current zoning laws. This process includes how many dogs are able to be housed on each property. This part of the legislation replicates those zoning laws and can only cause confusion. Resources required by council to administer such legislation could be better spent locating those large-scale breeders who operate without any approvals and keep dogs in substandard conditions where RSPCA and AWL can, and do, ensure they become and remain compliant. This Amendment overregulates those who are already in plain sight and complying with Companion Animal, zoning and POCTAA laws.

Setting up a breeding facility, even those which have a small number of dogs on the property, requires significant amounts of money, time, and resources. People who do this have a belief that by putting everything they have into their dogs that this will enable them to have enjoyment of their property, their hobby, or their businesses. This Amendment has unrealistic expectations that breeders will invest significant amounts of money and get all the appropriate current and new approvals before they know whether they will be even approved by the Chief Executive to register their premises. There are current laws in place that regulate these things and legislators cannot expect breeders to build innovative,

housing that embrace the best human to canine interaction and the best welfare outcomes with these risk factors.

It is this type of over regulation, such as the Victorian Legislation, and the use of discretionary powers which can lead to accusations of corruption. Even the Victorian legislation, which has negatively impacted availability of puppies bred in that state, has the ability for those with up to fifty dogs on their properties to continue. Introducing a ten fertile female dog limit on NSW breeders will ensure that those seeking a new puppy will be deprived of their basic consumer rights to purchase a pup of their choice from a source of their choice, in a reasonable price range.

Additionally, the reduction of dog breeder numbers in Victoria who have more than three fertile dogs and up to ten fertile females, due to over regulation of this group, has negatively impacted on supply and demand, radically restricted consumer choice and has created output restrictions, which creates scarcity that increases prices or stops prices from falling. If all breeders worked together in agreement with each other to do this then this would be seen as anti-competitive and unlawful, yet this is exactly what this amendment will do.

Prices are so high now with most families having to struggle to find the money to purchase a family pet. It has created the perfect environment for scammers who sell puppies that don't exist for tens of thousands of dollars.

Victoria has seen an increase in completely unregulated micro breeders due to the monetary rewards and has made micro-breeding even more attractive as there is less competition for sales with fewer regulated breeders selling puppies. The higher demand, less supply and the fact micro-breeders are exempt from having to follow codes of practice for breeding dogs has seen an increase in complaints about people buying sick unvaccinated puppies. The human cost of this is that these puppies are in homes where people have used their life savings to purchase the puppy and they now have huge vet bills to pay. They have no way to hold the seller accountable.

Fair Trading cannot assist as the seller does not have an A.B.N and civil matters or reports to the RSPCA are not possible because the seller has not given any more personal information apart from an email address, Facebook page or Gumtree Ad that often disappears. The police are helpless to act, and we know this because we have tried to stop the scammers to no avail. The Victorian Legislation has led to numerous other unintended consequences where unscrupulous breeders, who make hundreds of thousands of tax-free incomes per year, have found inventive ways to exploit the system. It places puppy buyers at more risk of being scammed and sold sick puppies. None of this addresses the modern companion animal businesses that have cropped up in Victoria and now NSW which circumvent such legislation and place the welfare of more dogs in greater jeopardy.

This Amendment Bill gives far reaching powers to local council authorised officers without appropriate oversight for the welfare of dogs. It creates an environment where theft, corruption and intimidation can flourish. Legislation that micromanages breeders and their properties to this extent, as if there are no differences in management requirements dependent on the multitude of variables in play, will obtain the objective of regulating breeders, but will have far reaching negative impacts for the dogs and those who wish to take them into their families.

Legislators must ask themselves why any person would want to spend huge amounts of money to apply for a Development Approval to breed dogs on their property, build infrastructure that complies with POCTAA and local council laws, apply for an extra permit to register a breeding business on the property [even though the property is already approved via a DA] and reapply every year, be inspected by council and RSPCA etc if they all they want is to have a handful of breeding dogs and work on breeding beautiful puppies that enrich their new family's lives? Due to the restrictions, they have an exceptionally low ability to recover the costs of setting up their establishment and most just don't start which compounds the supply problem. This amendment bill wipes out any person who owns more than ten fertile females even if the dogs are only on the property for a few weeks each year, so all of these requirements are not on large scale intensive breeding facilities, because under this bill they

would not exist. All of this is on breeders in the group least likely to warrant such government interference.

Heavily legislating this group of breeders – those who have between 3 and 10 dogs – out of existence makes little sense when it is this group who are least likely to be treating their animals poorly and are the breeders who are relied on most to consistently breed well temperament, healthy happy babies that fit well into their new owner's families.

The provision of wide-ranging discretionary power without appropriate oversight and the information breeders are required to collect and give to a department chief, just because they want to keep a three to ten fertile female dogs on their property, especially as breeding dogs is a legal activity, and a necessary service, is a complete over-kill and trespasses on personal rights and liberties. It not only impacts on the rights of the breeder but also the consumer.

Division 4 - Source Numbers

The MDBA believes this is the most important aspect for consideration under this proposed amendment. We do agree that there needs to be reform but feel this amendment bill misses key issues and in its current form will have limited impact for improvement or change.

The way this system is legislated and policed is currently completely inefficient and a totally wasted resource.

The simplest, quickest, and most efficient solution, which has no unintended consequences, to knowing who is breeding dogs; to identify large-scale breeders and where they are; would be to overhaul the current pet registry system. Whilst this division in this Amendment Bill is moving toward improvements it still falls far short of what is required and has aspects which places power on a Departmental Executive which is not required and will not work. The MDBA is of the opinion that with a few minor alterations to the current system there can be more transparency that will show who is breeding puppies and where they are located and where they are being homed.

It is difficult to imagine any anti-puppy farm scheme that could be implemented and run as effectively as possible without the use of a breeder identification number and microchip registration system. In fact, it is the only thing that will make or break any strategy used to locate rogue puppy farmers.

- a. Currently it is NOT mandatory that breeders have a Breeder Identification Number (BIN) issued by the NSW Pet Registry or that they display this in advertisements. The MDBA believes this is a glaring omission and has a number of unintended consequences. The most obvious being that this allows no traceability of who are breeding puppies, where they are or where they are placed.
- b. It must be a mandatory requirement for any person who microchips a puppy to provide their Breeder Identification Number issued by the NSW Pet Registry at the time the chip is inserted. Additionally, this number MUST be used by anyone who wants to advertise or sell a dog unless they are a member of an Approved organisation, in which case they MUST use their member number. This MUST be policed and there MUST be penalties issued for those breeders who do not keep their details up to date.
- c. The current laws which state that puppies must be microchipped into the breeder's name rather than the new owners name MUST be policed as we are aware that this is not always the case. Veterinarians and other implanters who do not comply MUST be penalised to stop the practice of microchipping puppies in the new owner's name, so we know where puppies come from and where they live after they are sold.
- d. The current NSW Pet Registry forms required for microchip registration MUST be amended to include the source number of the person breeding the puppies. Licenced microchip implanters MUST NOT insert a microchip unless this number is produced and verified.
- e. Microchip implanters MUST be given a time frame to enter microchip details into the Pet Registry system and if they do not comply, they MUST be penalised. At the moment a breeder can do everything

right but because the microchip implanter has not entered the details into the Pet Registry system the breeder is seen to have done the wrong thing, even though they have no control over the microchip registration or when it is entered into the pet registry system. Breeders cannot transfer ownership until these details are entered and its common for them to have to continually attempt to transfer ownership for up to 6 months.

f. Any person found to be using a source number or Approved Organisation member number that is not their own MUST be penalised. The NSW government MUST do something to reduce the number of NSW constituents being scammed by unscrupulous people who are making millions of dollars selling puppies that do not exist and that are purchased using stolen source or Approved Organisation numbers.

g. The legislation surrounding source numbers MUST be proactively policed by dedicated local government personnel who monitor advertisements and number of litters being registered in comparison to number of dogs registered on properties. RSPCA and AWL must be notified of any person who registers higher than average numbers to ensure they are aware of who they are and where they are.

h. An online course focused on the welfare of dogs, obligations regarding POCTAA and Companion Animals Act and Code of Practice for breeding dogs, must be introduced and must be passed by a person BEFORE they receive a source Number. This will ensure all breeders are educated in their requirements to comply, all of which we expect will reduce the investigative burden on compliance officers. The MDBA already provides an induction course to our members which covers these things as part of their membership requirements.

Division 5 - Business Information Register.

There is no need for this to be introduced, especially if the Pet Registry is overhauled and operating as it should be. Before any person obtains a source number these details are collected and are verified at renewal and local councils know who has approvals to breed dogs on their property via their DA registration system. Councils can keep up-to-date information on a day-by-day basis and can remove the right to a source number or refuse a renewal in certain circumstances. The Pet registry can be inspected by permitted officers and any welfare related concerns are already able to be and are passed onto RSPCA and AWL.

The MDBA currently provides updated information regarding our member's numbers and kennel prefixes every two weeks to the NSW Pet Registry, but this information is not enough to prevent scams or identify a person who breeds or sells dogs. We have offered to provide more information to help protect our members, but this has been refused. If applicable organisation members are to be able to use their member numbers rather than their source numbers, then the ability to check a breeder exists must be available via the pet registry website and the applicable organisation.

As this is presented in this amendment bill it impinges on the rights and liberties of owners of fertile female dogs.

Division 6 - Offences.

The penalties in this section are completely disproportionate, excessive, and unreasonable.

61ZC. Must not have more than ten fertile female dogs or cats and the number includes any animal that is the subject of a breeding arrangement.

1. Dog breeding in this country is a legal activity and as long as breeders are compliant with all laws and codes to ensure the health and welfare of their animals, they should have the right to enjoy a hobby or operate and trade as any other business does. Whilst a dog breeder does not feed the nation as other animal breeders do, they do provide a much-needed service, and operate in an industry that is worth more to the Australian economy than the cattle industry. The current trend of treating all dog breeders as if they have less rights than any other member of society, are

potential criminals and animal abusers and are guilty until proven innocent must stop. Treating puppy buyers as if they are children who are not able to enter into mutually agreeable contracts or purchase a puppy of their choice from a source of their choice must stop.

2. This restricts the right of the consumer to purchase a dog of their choice from a source of their choice. Introducing a limit of ten fertile dogs will radically impact on the number of puppies which can be produced to fill consumer demand.
3. This does not take into account the differences in management requirements for different breeds. E.g., Management requirements between a toy breed and a giant breed.
4. This will restrict the ability for breeders to select the best candidates for breeding and they will be forced to make breeding decisions based on the limited pool of dogs they are allowed to have which will negatively impact the health and temperament of future generations.
5. Restricting numbers in this way creates a whole under-belly of dodgy industries which are a major risk to breeding dogs that crop up and are completely unregulated, as is the case in Victoria. This type of welfare threat to breeding dogs and their puppies are modern impacts to the welfare of dogs and greater concern than breeders who have more than ten fertile females who are in plain sight.
6. It is not unlawful or immoral to earn a living breeding dogs. Restricting numbers so radically means many of those who earn their income from breeding dogs and are with their dogs 24 hours a day to love and care for them, taking time to place them in families they build relationships with, will not be able to continue and will be required to re-enter the work force and therefore their dogs will no longer have the care and attention they are used to.

61ZD. Ensure Dogs and Cats undergo routine veterinary checks.

The MDBA is a strong advocate for dogs having routine yearly vet checks, and vet visits whenever the breeder has any concerns, which is a requirement under the POCTAA. However, this clause is overreach, not supported by science and is far too rigid.

61ZF. Must not breed dogs or cats in certain circumstances.

All of these circumstances are related to welfare and are dealt with under POCTAA.

1. There is absolutely no medical or scientific reason as to why a breeder should limit a female dog to only two litters and have her vet checked each time within 4 weeks prior to breeding or soon after whelping. This is likely to do more harm than good. If a breeder has a healthy well-temperamented girl, who is a good mum and does what she has evolved to do, she will not be compromised in any way if she has more litters. The Canine reproductive system is unique and must be treated as such with respect to the science of the species.
2. Genetic considerations in dog breeding are not as simple as removing the dog from the gene pool if a heritable disorder is identified in a previous litter. Everything depends on the mode of inheritance and numerous other considerations including whether there is a DNA disease test available for the condition. This is not something that should be under this legislation but rather under POCTAA.
3. A dog or cat that is related by blood is a very ambiguous term. In some breeds there were only a handful of founder animals so if you go back far enough all dogs in a breed would be related by blood – this is what a purebred animal is. Sometimes line breeding is required to identify and breed out certain health conditions and traits.

At any given time, the MDBA has numerous certified preservation breeding programs operating across many breeds. One example - The MDBA preservation breeding program for eliminating Hemivertebra in three breeds. This has placed us in a position where we have dogs which will see the control, and elimination of this disease in one breed so far, which most believed was not possible within the current purebred gene pools. This is a world first for Australia and truly exciting news.

The MDBA breeder members who are involved with this program are true heroes. Because of this, it means hundreds of thousands of dogs in some breeds into the future will not be affected by and suffer with this disease. In order to achieve the goals of the program, in a reasonable time frame, limited in-breeding with expert supervision may be required. This amendment bill would see those working in these types of breeding programs as criminals, where nothing could be further from the truth. Any bans of close inbreeding must come with a condition that would exempt those working on such certified breeding programs. A government should not interfere to such an extent on choices breeders make and disregard their knowledge and experience. Again, this should be under POCTAA.

61ZG. Staff to animal Ratio.

We are struggling to understand the requirement to have one person on the property at all times for every five animals. These are far higher than required and have no basis whatever. The person to dog ratio is affected by variables which are too numerous to list though some considerations are the life stages of the dogs, the breed, the climate etc.

61ZH. Must Keep records of breeding arrangements.

This is covered under Section 5.1.1 in the Code of Practice Under POCTAA. As it is presented in this amendment bill it is government overreach and removes rights and liberties of all parties involved.

61ZI. Keeping of Health Management Plans.

The MDBA is in full agreement with the requirement that all people engaged in the activity of breeding dogs must keep a health management plan. MDBA breeder members keep one and our office holds a copy of them in our member files to ensure they are compliant with state laws and codes. RSPCA have provided feedback that our members were well prepared for their recent audits because of this. However, again this should be under the POCTAA Code of Practice as it works in conjunction with other record keeping requirements under that legislation.

61ZJ Must Ensure ongoing safety of Dogs and Cats

This is covered under POCTAA and the Code of Practice for breeding dogs and Cats.

61ZK Retiring and Rehoming ex breeding dogs

This is covered under the Code of Practice For Breeding Dogs under POCTAA

IN CONCLUSION

An important aspect of this amendment bill to be acknowledged, when members of parliament are considering their position, is that all of the content is about regulating only one group of breeders. Those with three or less fertile females and owners of working dogs are exempt. Those with more than ten fertile females, with that number including dogs that are not on the property but that are the subject of breeding arrangements, are to be closed down and eliminated. No matter how well they look after and care for their dogs, no matter what their staff to dog ratio is. All of this over regulation and removal of rights and liberties is intended for only those who own between 3 and 10 fertile females. Over regulating breeders who have between 3 and 10 fertile females, when these are the ones least likely to be breeding dogs in substandard conditions, would be a total disaster to all dog owners and the wider community. It is absolutely the last thing that is required in order to ensure the welfare or management of companion animals.

Companion Animal Owners must not be deprived of their consumer rights and prices must not be manipulated by a government to set up a radically reduced choice and higher costs environment.

Companion Animal Breeders must not be deprived of their rights and liberties. When they comply with all welfare standards, they must not have their hobbies and businesses restricted in a way no other Australian pastime or businesses are subject to. No other Australian state nor any other country has legislation in place that is so punitive for this group of breeders or that prevents breeders from being able to have a higher number of dogs if welfare needs are met.

Treating all dog breeders as if they have less rights than any other member of society, are potential criminals and animal abusers requiring government interference and overreach and are guilty until proven innocent, must stop.

Treating puppy buyers as if they are not able to enter into mutually agreeable contracts without government intervention and oversight or able to purchase a puppy of their choice from a source of their choice must stop.

Systems designed to locate and identify who is breeding dogs, where they are located and where they are homing their puppies must be the focus on any system designed to regulate dog breeders, rather than introducing more and more restrictions and overreach on those who are already doing the right things for their dogs, in plain sight.

The Companion Animals Amendment [Puppy Farm] Bill 2021 would have a major negative impact and far-reaching negative unintended consequences for dog owners, dog breeders and pet related industries in NSW.

We thank the committee for allowing us to provide feedback on this amendment bill. Please don't hesitate to contact me if you require any further information or if we can be of any assistance.

Julie Nelson

Managing Director

Master Dog Breeders and
Associates