

**Submission
No 133**

INQUIRY INTO POUNDS IN NEW SOUTH WALES

Organisation: NSW Young Lawyers Animal Law Sub-Committee

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Inquiry into pounds in New South Wales

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The NSW Young Lawyers Animal Law Sub-Committee (**Sub-Committee**) makes the following submission on the Inquiry into pounds in New South Wales

NSW Young Lawyers

NSW Young Lawyers is a member service offered by The Law Society of New South Wales to early career lawyers within their first five years of practice or under the age of 36.

As a Committee of the Law Society of New South Wales and through its 15 sub-committees, each dedicated to a substantive area of law, NSW Young Lawyers supports practitioners in their professional and career development by giving them the opportunity to extend their network, expand their knowledge, advance their career and contribute to the profession and community.

The Sub-Committee comprises a group interested in laws regulating the treatment of animals. The Sub-Committee aims to raise awareness and provide education to the legal profession and wider community, while increasing understanding about the importance of protecting animals from abuse and neglect. A common theme amongst Sub-Committee subscribers is a passion and desire to use their legal skills and the law to improve protections for animals.

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The Sub-Committee welcomes the opportunity to make a submission on this inquiry, and makes comments on Terms of Reference c, d, e, f, and g.

Summary of Recommendations

The Sub-Committee submits that:

1. An Independent Office of Animal Welfare should be established.
2. An animal Welfare grant program similar to those in Victoria and Western Australia to private and volunteer rescue and rehoming organisations should be introduced to alleviate the overwhelming pressure on Council-run pounds.
3. Amendments should be made to the NSW Animal Welfare Code of Practice No 5 – Dogs and cats in animal boarding establishments (1996) to adequately protect animals.
4. The inclusion of a penalty regime should be established for Council pounds failing to comply with the NSW Animal Welfare Code of Practice No 5 – Dogs and cats in animal boarding establishments (1996).
5. The NSW Government conduct independent audits of all NSW pounds, their practices, procedures and polices, in order to monitor compliance with the Code.
6. The New South Wales Government could work with local Councils and animal rescue organisations to implement the following strategies to reduce surrender rates across the state:
 - a. promoting responsible pet ownership;
 - b. returning roaming animals directly to owners;
 - c. escalating fines for owners of animals caught repeatedly wandering;
 - d. providing subsidised sterilisation and microchipping programs;
 - e. offering alternatives to surrender; and
 - f. slowing intake when at or near capacity.

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7. The New South Wales Government should aspire to achieve zero euthanasia of animals that are healthy or treatable, and suitable for being rehomed or capable of being rendered suitable for rehoming.

8. Key strategies for reducing euthanasia rates are:

a. reducing animal intake, including undertaking further research to identify effective, non-lethal strategies for reducing urban stray and feral animal populations;

b. increasing reclaim rates, including by initiatives to increase microchipping and registration;

c. increasing rehoming rates, including by:

i. maintaining the health and vaccination status of impounded animals;

ii. making efforts to socialise and re-home stray animals;

iii. developing and maintaining relationships with animal shelters; and

iv. introducing foster programs.

9. The quality of reporting of euthanised animals by Council-run pounds may be improved by adopting the following measures:

a. separating figures for “feral” and “infant” animals euthanised;

b. collecting and reporting reasons for owner-requested euthanasia;

c. collecting and reporting reasons for animals being classed “unsuitable for rehoming”;

d. reporting data on euthanasia practices; and

e. encouraging pounds to report.

10. Behavioural assessments require testing in a stable environment with minimal exposure to stressors that may otherwise lead to a deterioration in an animal’s behaviour and misleading outcomes.

11. Information from behavioural assessments should be considered in conjunction with detailed history reports from previous owners and ongoing reports from staff, trainers and/or foster carers, to ensure that animals in pounds are receiving the best chance of being rehomed.

Welfare challenges facing animals in pounds across New South Wales

1. Section 5 of the *Prevention of Cruelty to Animals Act 1979 (POCAA)* provides that the failure to provide reasonable care, control, or supervision of an animal, including pain relief and veterinary treatment, can amount to cruelty to animals. Section 8 of POCAA requires the provision of daily food, drink or shelter to animals under care. Section 9 of POCAA requires the provision of adequate exercise to animals in confinement. The *Companion Animals Act 1998 (CAA)* outlines requirements regarding the desexing of companion animals.
2. Under the current legislative framework, welfare challenges facing animals in pounds across NSW include the lack of meaningful legal protections, inadequate regulatory oversight, and the lack of financial and best practice policy.¹
3. Regarding legal protections and regulatory oversight, the Sub-Committee recommends the establishment of an Independent Office of Animal Welfare to address, in part, issues with local government accountability in animal welfare matters.² The Sub-Committee submits that the establishment of such an independent statutory authority will help to properly resource rescue and inspectorate programs as well as remove the undue political influence of the major parties and their donors from animal protection.³
4. A key distinction between Australia and the higher scoring nations on the Animal Protection Index, such as Austria and Sweden, is the oversight of animal welfare matters by independent committees and bodies.⁴ Austria, for example, has Animal Protection Ombudspersons in each province and cross-party representation on an Animal Protection Commission and Animal Protection Council that are tasked with providing oversight and various regulatory and advisory functions.⁵

¹ NSW Department of Primary Industries, 'NSW Animal Welfare Reform' (Discussion Paper, July 2021) <https://www.dpi.nsw.gov.au/_data/assets/pdf_file/0004/1324948/NSW-Animal-Welfare-Reform-Discussion-Paper.pdf>; Abigail Boyd, 'Reforming NSW's Broken Pound and Shelter System' (Webpage) *Abigail Boyd Greens NSW MP* <https://www.abigailboyd.org/reforming_nsw_s_broken_pound_and_shelter_system>; NSWYL Animal Law Committee, Submission to the NSW Animal Welfare Law Reform Discussion Paper (September 2021).

² NSWYL Animal Law Committee, Submission to the Inquiry into the approved charitable organisations under the Prevention of Cruelty to Animals Act 1979 (28 February 2022); The Greens NSW, 'Animal Welfare' (Webpage) <<https://greens.org.au/nsw/animalwelfare>>.

³ Ibid.

⁴ NSWYL Animal Law Committee, Submission to the Inquiry into the approved charitable organisations under the Prevention of Cruelty to Animals Act 1979 (28 February 2022).

⁵ Ibid.

5. Regarding financial and best practice policy, the Sub-Committee recommends the introduction of grant schemes to private and volunteer rescue and rehoming organisations to alleviate the overwhelming pressure on Council-run pounds.⁶ In particular, in the face of COVID-19, natural disasters, and the rental crisis, there has been a significant increase in the number of animals being surrendered to local pounds where despite best efforts, a significant number of pets, particularly from some rural areas, go without timely vaccinations and desexing.⁷
6. In Victoria and Western Australian (**WA**), the important role played by private and volunteer rescuers is recognised and supported by animal welfare grant programs. The Victorian grant program allocates funds to support equipment acquisition and enhancement for both private and volunteer rescuers. Additionally, it aids in sustaining and expanding services offered by not-for-profit and community veterinary clinics, while also facilitating animal rehoming, rehabilitation initiatives, and vital desexing programs.⁸ Similarly, WA grants are available to animal shelters and foster carers, wildlife rescuers; supporting not-for-profit activities that foster and rehome pets, rehabilitate wildlife, and provide low-cost or free animal health and veterinary services.⁹ The Sub-Committee submits that NSW should adopt a similar animal welfare grant program.
7. In addition to the abovementioned challenges in relation to (especially) dogs and cats, many Council impounding facilities and other animal shelters do not have the capacity, due to limited resources, to provide suitable care to farm animals.¹⁰ Section 64B of the *Companion Animals Amendment (Rehoming Animals) Act 2022* requires a Council to give written notice to at least 2 rehoming organizations that the animal is available for rehoming before destroying them. The availability of an effective

⁶ Jess McGuire and Nick Lowther, 'NSW upper house inquiry to probe overcrowding, animal welfare concerns in shelters and pounds' (Internet news, 19 July 2023) *ABC* <<https://www.abc.net.au/news/2023-07-19/nsw-upper-house-inquiry-probe-animal-welfare-shelters-pounds/102615500>>; The Centre for International Economics, 'Rehoming of Companion Animals in NSW' (Issues Paper, 22 May 2022) <https://www.olg.nsw.gov.au/wp-content/uploads/2022/05/CIE-Issues-Paper_NSW-OLG_Rehoming-of-Companion-Animals-in-NSW-25052022-final.pdf>; Abigail Boyd, 'Reforming NSW's Broken Pound and Shelter System' (Webpage) *Abigail Boyd Greens NSW MP* <https://www.abigailboyd.org/reforming_nsw_s_broken_pound_and_shelter_system>.

⁷ *Pet Industry Association*, 'AWL NSW pledges support to the Dubbo Regional Council to address animal welfare issues in the region' (Webpage, 19 April) <<https://www.piaa.net.au/news/awl-nsw-pledges-support-to-the-dubbo-regional-council-to-address-animal-welfare-issues-in-the-region>>; NSWYL Animal Law Sub-Committee, Submission to Keeping Pets in Rental Homes Consultation (2 December 2022) <https://www.lawsociety.com.au/sites/default/files/2023-06/221202%20Submission%20on%20Keeping%20Pets%20in%20Rental%20Homes%20Consultation_0.pdf>.

⁸ Victoria State Government, 'Animal Welfare Fund Grants Program' (Webpage) <<https://agriculture.vic.gov.au/livestock-and-animals/animal-welfare-victoria/community-and-education/animal-welfare-fund-grants-program>>.

⁹ Government of Western Australia, 'Animal Welfare Grant Program' (Webpage, 3 May 2023) <<https://www.agric.wa.gov.au/animal-welfare-grant-program>>.

¹⁰ Animal Liberation, 'AL challenges the Animal Welfare League' (Webpage, 25 September 2023) <<https://www.al.org.au/media/animal-lib-challenges-awl>>; Abigail Boyd, 'Reforming NSW's Broken Pound and Shelter System' (Webpage) *Abigail Boyd Greens NSW MP* <https://www.abigailboyd.org/reforming_nsw_s_broken_pound_and_shelter_system>.

grant program to private and volunteer animal rescuers would therefore improve the capacities of not only those rescuers, but of the Council pounds that liaise with them.

The adequacy of the laws, regulations and codes governing New South Wales pounds

8. Under the CAA, a local Council may establish a public or private pound for the holding of companion animals surrendered to the Council or seized by an authorised officer of the Council.
9. NSW does not have legal standards for the operation of pounds. Instead, there are developed standards and guidelines, including the NSW Animal Welfare Code of Practice No 5 – Dogs and cats in animal boarding establishments (1996) (**Code**). At clause 1.3, the Code provides that establishments which require commercial boarding services, Council pound services and veterinary hospital services to comply with the standards of the Code.

Adequacy of the standards of the Code

10. The Committee recommends that the following amendments be made to the Code to adequately protect animals:

- a. clause 3.3.1, the requirement that housing areas provide “enough space for each animal...” include greater specificity;
- b. clause 3.4.1, the requirement that animals be protected from extremes of temperature, and the environmental temperature control to minimise distress to animals specify appropriate ranges;
- c. clause 4.1, the provision of examples of cleaning products that are suitable and prohibited, such as those that are toxic to cats;
- d. clause 5.1.1, the requirement that animals be protected from distress or injury caused by other animals be detailed in terms of specific measures that ought to be implemented (excluding those outlined in clauses 5.1.4-5.1.9);
- e. clause 5.2, the requirement that staff “should have experience” handling animals be quantified in terms of years of experience, type of experience and/or formal qualifications. Staff should also be able to understand communication signals given by cats and dogs, such as signals for increased space, signs of anxiety and signs of feeling threatened;

- f. clause 6.2.1 and 6.2.2, that the results of the daily checks be recorded in a daily record sheet, which identifies the employee performing the check;
- g. clause 6.4.1, the specification of conditions under which animals may be isolated, such that they do not cause distress or injury;
- h. clause 6.5.1, the requirement that euthanasia be given consideration where an animal becomes seriously ill or injured during boarding, and on recommendation by a veterinarian, be clarified to indicate that this is the only circumstance where the animal may be euthanised;
- i. clause 7.1.1, the provision of guidelines for what constitutes “accepted requirements”;
- j. clause 8.3.1, the requirement that the cats have “sufficient room to enable them to stretch and to move about freely” be clarified, as it is unclear what “move about freely” entails.

11. Furthermore, the Sub-Committee recommends the inclusion of a penalty regime for establishments or their employees failing to comply with the Code.

Adequacy of enforcement of the Act and the Code

12. Compliance with the CAA and the Code is, in the Sub-Committee's view, poor, and the Code itself has limited legal enforceability. There have been reports of complaints regarding impounded dogs living in extremely poor conditions and being the subject of cruelty in pounds across NSW, including Bourke Shire Council¹¹ and Bega Valley Companion Animal Facility¹² in recent months. This is at least in part due to an unprecedented state-wide influx of animals being surrendered or abandoned, far exceeding the capacities of pounds.¹³

13. Furthermore, the euthanasia of cats and dogs due to the inability to rehome them, despite their being suitable for rehoming, remains an issue. The Code at clause 6.5.1 states that euthanasia should be considered where an animal becomes seriously ill or injured during boarding and where it is recommended by a veterinarian who has examined the animal. However, euthanasia at a pound or shelter

¹¹ Zaarkacha Marlan, ‘Bourke Shire Council pound under fire for alleged animal cruelty and neglect’, *ABC News* (Internet news, 11 June 2023) < <https://www.abc.net.au/news/2023-06-11/bourke-pound-under-scrutiny-over-treatment-of-nine-dogs/102450962>>.

¹² James Fennessy, ‘Bega Valley Shire pound comes under scrutiny’ *2EC* (Internet news, 30 May 2023) <<https://www.2ec.com.au/local-news/39609/>>.

¹³ Julie Power, ‘A \$36m animal shelter is giving would-be pet owners the concierge treatment’ *Sydney Morning Herald* (Internet news, 19 June 2023) < <https://www.smh.com.au/national/nsw/a-36m-animal-shelter-is-giving-would-be-pet-owners-the-concierge-treatment-20230619-p5dhnd.html>>.

is reported as the leading cause of death for companion animals in NSW.¹⁴ Nonetheless, there is evidence that the overall trend of euthanasia in pounds has decreased; the NSW Office of Local Government reported that while 5,000 out of 22,000 instances of euthanasia in NSW Council pounds were due to the animal being unable to be rehomed (despite being suitable for rehoming) in 2012-2013, this dropped to 800 out of 8,800 in 2020-2021.¹⁵

14. The Sub-Committee recommends that the NSW Government conduct independent audits of all NSW pounds, and their practices, procedures and policies, in order to monitor compliance with the Code.

Factors influencing the number of animals ending up in New South Wales pounds, and strategies for reducing these numbers

15. The first half of 2023 saw a widely-reported and dramatic increase in the number of animals being surrendered to NSW pounds.¹⁶ This spike interrupted a steady decline in the overall number of animals being surrendered at the national and state level over the previous five financial years from 2017-2018,¹⁷ with record-high surrender rates leaving many pounds across the country over-flowing and over-capacity.¹⁸

16. Factors influencing the number of animals ending up in New South Wales pounds include but are not limited to the following.¹⁹

¹⁴ 'NSW Pound & Shelter Reform', *Animal Liberation* (Webpage, undated) <<https://www.al.org.au/nsw-pound-shelter-reform>>.

¹⁵ The Centre for International Economics, 'Rehoming of Companion Animals in NSW' (Issues Paper, 22 May 2022) <https://www.olg.nsw.gov.au/wp-content/uploads/2022/05/CIE-Issues-Paper_NSW-OLG_Rehoming-of-Companion-Animals-in-NSW-25052022-final.pdf>

¹⁶ See, eg, Laurise Dickson and Keely Johnson, 'Animal shelters and pounds report increase in surrendered animals across NSW due to rental squeeze', *ABC News* (online, 29 March 2023) <<https://www.abc.net.au/news/2023-03-29/increase-in-surrendered-animals-due-to-rental-squeeze-in-nsw/102148666>>; Penny Travers and Ethan French, 'Animal shelters overflowing as cost-of-living pressures prompt record pet surrenders', *ABC News* (online, 2 May 2023) <<https://www.abc.net.au/news/2023-05-02/animal-shelters-overflowing-with-record-pet-surrenders/102284546>>.

¹⁷ RSPCA, *RSPCA Australia National Statistics 2021-2022* (Annual Statistics, 2021-2022) 3, 5.

¹⁸ Laurise Dickson and Keely Johnson, 'Animal shelters and pounds report increase in surrendered animals across NSW due to rental squeeze', *ABC News* (online, 29 March 2023) <<https://www.abc.net.au/news/2023-03-29/increase-in-surrendered-animals-due-to-rental-squeeze-in-nsw/102148666>>; Penny Travers and Ethan French, 'Animal shelters overflowing as cost-of-living pressures prompt record pet surrenders', *ABC News* (online, 2 May 2023) <<https://www.abc.net.au/news/2023-05-02/animal-shelters-overflowing-with-record-pet-surrenders/102284546>>.

¹⁹ See generally, FOUR PAWS Australia, 'The top 9 reasons why people give up their pets' (Web Page, 5 January 2023) <<https://www.four-paws.org.au/our-stories/publications-guides/the-top-9-reasons-why-people-give-up-their-pets>>; RSPCA Queensland, 'Surrendering your pet: What you need to know' (Web Page, 19 May 2021) <<https://www.rspcaql.org.au/blog/breaking-news/top-reasons-people-surrendered-their-pets-2017>>.

- a) **Affordability:** The financial burden of caring for pets is a common reason for surrender. In recent years, cost-of-living pressures coupled with rising veterinary care prices have meant that many pet owners have found themselves no longer able to afford to look after their pets.²⁰
- b) **The rental crisis:** Another factor influencing surrender numbers is the current period of low rental vacancy for affordable housing and high rent prices.²¹ In particular, the shortage of rental properties across the state has enabled landlords to be more selective with their tenant choices, including by favouring rental applications from those without pets and inserting “no pets” clauses into rental agreements. This lack of pet-friendly accommodation in a competitive rental market is forcing some tenants to give up their pets in search of a place to live.²² An estimate of 15-25% of relinquished pets are closely related to pet restrictions in housing.²³
- c) **Changes in life circumstances:** Changes such as loss of a job, family and/or relationship breakdowns, ill-health and movement into a rental property with a “no-pets” policy also contribute to the number of animals ending up in NSW pounds.²⁴
- d) **Time:** The time required to provide for pets’ basic needs as well as adequate enrichment, stimulation and attention is also cited as a common reason for surrender. This factor has become increasingly relevant in the aftermath of the COVID-19 pandemic, as “working from home” arrangements (which initially encouraged significant increases in companion animal ownership

²⁰ Laurise Dickson and Keely Johnson, ‘Animal shelters and pounds report increase in surrendered animals across NSW due to rental squeeze’, *ABC News* (online, 29 March 2023) <<https://www.abc.net.au/news/2023-03-29/increase-in-surrendered-animals-due-to-rental-squeeze-in-nsw/102148666>>; Sonya McDowall et al, ‘The Impact of the Social Determinants of Human Health on Companion Animal Welfare’ (2023) 13(6) *Animals* 1, 9.

²¹ Michael Koziol, ‘\$2000 a week for a two-bed flat? Agents asking inflated rental prices’ *SMH* (Internet News, 13 April 2023) <<https://www.smh.com.au/national/nsw/2000-a-week-for-a-two-bed-flat-agents-asking-inflated-rental-prices-20230412-p5czsr.html>>.

²²Laurise Dickson and Keely Johnson, ‘Animal shelters and pounds report increase in surrendered animals across NSW due to rental squeeze’, *ABC News* (online, 29 March 2023) <<https://www.abc.net.au/news/2023-03-29/increase-in-surrendered-animals-due-to-rental-squeeze-in-nsw/102148666>>; Josephine Lim and Sara Tomevska, ‘Rental crisis forcing potential tenants to choose between their pets and a home’, *ABC News* (online, 8 June 2022) <<https://www.abc.net.au/news/2022-06-08/rental-crisis-sees-more-tenants-surrendering-pets/101134800>>; Taryn M. Graham et al, ‘Pets negotiable: How do the perspective of landlords and property managers compare with those of younger tenants with dogs?’ (2018) 8(32) *Animals* 1, 9; Intermedia, ‘The pet rental crisis begs for better laws, keep families together and pets out of shelters’ (Web Page, 20 September 2021) <<https://rentwithpets.com.au/news/the-pet-rental-crisis-begs-for-better-laws-keep-families-together-and-pets-out-of-shelters/>>.

²³ Wendy Stone et al, *Housing and housing assistance pathways with companion animals: Risks, costs, benefits and opportunities* (Australian Housing and Urban Research Institute Final Report No. 350, 2021) 15.

²⁴ FOUR PAWS Australia, ‘The top 9 reasons why people give up their pets’ (Web Page, 5 January 2023) <<https://www.four-paws.org.au/our-stories/publications-guides/the-top-9-reasons-why-people-give-up-their-pets>>; RSPCA Queensland, ‘Surrendering your pet: What you need to know’ (Web Page, 19 May 2021) <<https://www.rspcaqlld.org.au/blog/breaking-news/top-reasons-people-surrendered-their-pets-2017>>.

across the country) are gradually phased out by “return to work” policies across certain industries and organisations.²⁵

- e) **Animal health and age:** Medical and age-related health issues which can demand increased care from pet owners and which may result in additional veterinary costs also contribute to rates of surrender across the state. These considerations are also relevant to those who use animals to make money (for example, by racing or breeding), who are likely to surrender animals due to declines in profitability when the animal becomes too slow, old or sick and is no longer “fit for purpose” (in the owner’s view).²⁶

17. Other common factors influencing the number of animals ending up in NSW pounds include behavioural issues (such as aggression or barking in dogs) and unwanted litters from unspayed or un-neutered pets.

Strategies for reducing the number of animals ending up in New South Wales pounds

18. Strategies for reducing the number of animals ending up in New South Wales pounds include:

- a. promoting responsible pet ownership;
- b. returning roaming animals directly to owners;
- c. escalating fines for owners of animals caught repeatedly wandering;
- d. providing subsidised sterilisation and microchipping programs;
- e. offering alternatives to surrender; and
- f. slowing intake when at or near capacity.²⁷

²⁵ Animal Medicines Australia, *Pets and the pandemic: A social research snapshot of pets and people in the COVID-19 era* (Newgate Research Report No. 21, 2021) 9, 21.

²⁶ FOUR PAWS Australia, ‘The top 9 reasons why people give up their pets’ (Web Page, 5 January 2023) <<https://www.four-paws.org.au/our-stories/publications-guides/the-top-9-reasons-why-people-give-up-their-pets>>; RSPCA Queensland, ‘Surrendering your pet: What you need to know’ (Web Page, 19 May 2021) <<https://www.rspcaqld.org.au/blog/breaking-news/top-reasons-people-surrendered-their-pets-2017>>.

²⁷ Jacquie Rand et al, ‘Strategies to reduce the euthanasian of impounded dogs and cats used by councils in Victoria, Australia’ (2018) 8(7) *Animals*, 10.

19. The Sub-Committee recommends that the State government work with local Councils and animal rescue organisations to implement the strategies described below to reduce surrender rates across the state.

Community education campaigns

20. The Sub-Committee submits that there is a strong case to be made for the role of community education campaigns in reducing animal surrender rates. The potential benefits of campaigns which promote informed and responsible pet ownership are manifold.

21. Social media campaigns, training programs, and information seminars, for example, could help to ensure that those contemplating acquiring a pet are informed of, and give proper and prior consideration to, the responsibilities of pet ownership as a significant and long-term commitment. Such campaigns could encourage potential owners to research and plan for future contingencies that may affect their ability to care for their pet, including changes in life circumstances and increased costs associated with caring for animals over their entire life. Such campaigns could also be used to promote “adopt, don’t shop” initiatives, which encourage rehoming, reduce irresponsible and unethical breeding practices, prevent “impulsive” pet purchases, and raise awareness about problematic attitudes towards pets as “disposable commodities”.

22. In addition, and given that the majority of pet owners would prefer to keep their pets if the obstacles to retention were addressed,²⁸ community education campaigns could also be used to raise awareness about alternatives to surrender by directing pet owners to useful resources which encourage retention, such as RSPCA NSW’s ‘Surrender Portal’.²⁹ The Surrender Portal, which decreased surrender rates by 22% in its first year of operation in Queensland,³⁰ is an information portal that asks pet owners to input the type of animal they own and select the issues they are experiencing, and produces helpful, tailored and creative solutions that aim to avoid preventable surrenders and provide solutions for current owners.

Subsidised sterilisation and microchipping programs

23. Government-subsidised spay/neuter (sterilisation) programs delivered in partnership with local Councils and animal rescue organisations can have a significant impact on reducing surrender and

²⁸ Jacquie Rand et al, ‘Strategies to reduce the euthanasian of impounded dogs and cats used by councils in Victoria, Australia’ (2018) 8(7) *Animals*, 10.

²⁹ RSPCA NSW, ‘Surrender Portal’, *What are my options?* (Web Page, 2023) <<https://www.rspcansw.org.au/surrender/>>.

³⁰ RSPCA Queensland, ‘Surrendering your pet: What you need to know’ (Web Page, 19 May 2021) <<https://www.rspcaqld.org.au/blog/breaking-news/top-reasons-people-surrendered-their-pets-2017>>.

euthanasia rates in pounds, especially for cats.³¹ In particular, free or low-cost sterilisation programs in areas with low sterilisation rates and high puppy and kitten intake make sterilisation more affordable for low-income pet owners, and can thereby operate to reduce surrender rates of unwanted litters and encourage rehoming. Programs of this kind have been shown to result in significant savings, with data from Australia and the United States indicating that investing in these programs reduces costs associated with animal management and staffing for local government.³²

24. The Sub-Committee also recommends that the government explores free and low-cost microchipping programs in communities with high stray intake so as to facilitate rapid identification and enable pets to be returned directly to their owners rather than impounded and potentially not reclaimed due to prohibitive fines.³³

Changes to tenancy laws

25. The Sub-Committee refers to its December 2022 submission to the Consultation on Keeping Pets in Rental Homes (**2022 Submission**) and maintains the recommendations made in that submission.³⁴

26. In particular, the Sub-Committee submits that state residential tenancy laws should be amended to improve access for tenants to keeping pets in rental homes as a strategy for reducing relinquishment rates.³⁵ The Sub-Committee supports a model whereby a landlord can only deny a prospective tenant's request to keep a pet if they obtain a Tribunal order allowing them to do so, similar to the model that applies in Victoria, the Australian Capital Territory, and the Northern Territory. Evidence suggests that such changes have the potential to reduce the number of pets that are surrendered due to their owners relocating; in 2019, prior to relevant legislative amendments in Victoria, 13.2% of animals were surrendered to the Victorian RSPCA due rental reasons - this figure dropped to 9.5% in 2021.³⁶

27. As noted in the 2022 Submission, there are strong policy grounds to restrict landlords' discretion in deciding whether to refuse permission to keep pets, including the prevalence of animal ownership,

³¹ Jacque Rand et al, 'Strategies to reduce the euthanasian of impounded dogs and cats used by councils in Victoria, Australia' (2018) 8(7) *Animals*, 18-19.

³² *Ibid.*

³³ *Ibid* 20.

³⁴ The Law Society of NSW Young Lawyers Animal Law Sub-Committee, *Submission on Keeping Pets in Rental Homes Consultation* (2 December 2022).

³⁵ *Ibid* 6.

³⁶ Alanah Frost, 'Pets in rentals Victoria: How reform has fared almost two years on', Realestate.com.au (Web Page, 27 December 2021) <<https://www.realestate.com.au/news/pets-in-rentals-victoria-how-reform-has-fared-almost-two-years-on/>>.

the role of animals in contributing to community cohesion/well-being, and the respect of tenants' autonomy.³⁷

Euthanasia rates in NSW Pounds

28. The Office of Local Government publishes data annually, illustrating the numbers of dogs and cats leaving Council pounds and the manner in which they leave.³⁸ The statistics in **Table 1** and **Table 2** have been calculated on the basis of that data:

Table 1: Outcomes for dogs and cats leaving NSW Council pounds from July 2017 to June 2022

Financial Year	Euthanised		Released to owner, released to organisation for rehoming, or sold		Other (e.g. escaped, stolen, died at facility)	
	Dogs	Cats	Dogs	Cats	Dogs	Cats
2021 – 2022	2,015 (10.1%)	4,639 (31.3%)	17,773 (89.3%)	9,912 (66.9%)	113 (0.6%)	271 (1.8%)
2020 – 2021	2,113 (9.2%)	6,713 (33.0%)	20,681 (90.2%)	13,305 (65.4%)	140 (0.6%)	326 (1.6%)
2019 – 2020	3,865 (13.7%)	7,906 (38.6%)	24,082 (85.6%)	12,207 (59.7%)	176 (0.6%)	350 (1.7%)
2018 – 2019	4,918 (15.0%)	9,419 (40.6%)	27,589 (84.3%)	13,399 (57.8%)	208 (0.6%)	360 (1.6%)
2017 – 2018	4,691 (15.1%)	8,404 (41.0%)	26,121 (84.3%)	11,821 (57.6%)	167 (0.5%)	286 (1.4%)

Note: The percentages in Table 1 identify the proportion of dogs/cats compared with the total number of dogs/cats leaving NSW Pounds.

29. In FY2022, 10.1% of dogs and 31.3% of cats that exited NSW Council pounds did so via euthanasia.³⁹ It is encouraging that the proportion of animals being euthanised has dropped signifi-

³⁷ The Law Society of NSW Young Lawyers Animal Law Sub-Committee, *Submission on Keeping Pets in Rental Homes Consultation* (2 December 2022) 8.

³⁸ 'Pound and Dog Attack Statistics' *NSW Office of Local Government* (Web Page, 27 July 2023) <<https://www.olg.nsw.gov.au/public/dogs-cats/responsible-pet-ownership/pound-and-dog-attack-statistics/>>. Please note that these figures only pertain to animals in Council pounds, as opposed to shelters owned by not-for-profits.

³⁹ The Merriam-Webster Dictionary defines "euthanasia" as "the act or practice of killing or permitting the death of hopelessly sick or injured individuals (such as persons or domestic animals) in a relatively painless way for reasons of mercy": 'euthanasia', *Merriam-Webster Dictionary* (Web Page, 2 August 2023) <<https://www.merriam-webster.com/dictionary/euthanasia>>. In the present context, the term is used to describe the deprivation of life in a broader set of circumstances, including for reasons of convenience. For this reason, the Sub-Committee prefers the term "killing", but has used "euthanasia" in this submission, in order to remain consistent with the terminology adopted in the terms of reference.

cantly since FY2018, when 15.1% of dogs and 41.0% of cats were euthanised. This constitutes a drop of 33.1% in respect of dogs and 23.7% in respect of cats over a four-year period.

30. The percentage of animals euthanised in individual pounds in the FY2022 varied widely:

- a. in respect of dogs, from 0% (18 pounds) to 56%, with a median of 7.3%; and
- b. in respect of cats, from 0% (12 pounds) to 100% (4 pounds), with a median of 25.0%.

31. While outcomes for animals at different pounds are not directly comparable due to differences in circumstances, the Sub-Committee suggests that this broad range indicates that lower euthanasia rates are achievable.

32. In respect of dogs, NSW Council pounds have achieved a euthanasia rate of 10%, which is widely accepted as equivalent to achieving zero euthanasia of healthy or treatable animals.⁴⁰ However, 56.4% of pounds reported a euthanasia rate of $\leq 9\%$ and 35.9% reported a euthanasia rate of $\leq 5\%$,⁴¹ indicating that rates below 10% are not only an achievable, but a realistic goal for many pounds.

33. It must be noted that the percentage of cats euthanised is over three times higher than the percentage of dogs. This is largely due to the high proportion of cats deemed “feral/infant” as illustrated in **Table 2**, below.

⁴⁰ See, for example, Jaquie Rand, Emily Lancaster, Georgia Inwood, Carolyn Cluderay and Linda Marston, ‘Strategies to Reduce the Euthanasia of Impounded Dogs and Cats Used by Councils in Victoria, Australia’ (2018) 8(7) *Animals* 100, 2; 17; The Centre for International Economics, *Rehoming of Companion Animals in NSW* (Draft Report September 2022) 10, 17 (*CIE 2022 Draft Report*).

⁴¹ This statistic is calculated on the basis of the 117 pounds that reported figures for dogs leaving their facility. The five pounds that reported zero outgoing dogs have been discounted for the purposes of this calculation.

Table 2: Reasons for euthanasia in NSW Council pounds from July 2017 to June 2022

Reason for Euthanasia	2021 – 2022 FY		2020 – 2021 FY		2019 – 2020 FY		2018 – 2019 FY		2017 – 2018 FY	
	Dogs	Cats	Dogs	Cats	Dogs	Cats	Dogs	Cats	Dogs	Cats
Illness / disease or injury	306 (15.2%)	794 (17.1%)	259 (12.3%)	943 (14.0%)	431 (11.2%)	959 (12.1%)	438 (8.9%)	1,373 (14.6%)	438 (9.3%)	1,211 (14.4%)
Feral / Infant	35 (1.7%)	2,943 (63.4%)	17 (0.8%)	4,340 (64.7%)	169 (4.4%)	5,225 (66.1%)	147 (3.0%)	5,657 (60.1%)	244 (5.2%)	4,988 (59.4%)
Owner Request	227 (11.3%)	11 (0.2%)	276 (13.1%)	66 (1.0%)	351 (9.1%)	114 (1.4%)	569 (11.6%)	64 (0.7%)	423 (9.0%)	39 (0.5%)
Unable to Rehome	178 (8.8%)	185 (4.0%)	217 (10.3%)	568 (8.5%)	544 (14.1%)	440 (5.6%)	946 (19.2%)	751 (8.0%)	1,079 (23.0%)	873 (10.4%)
Unsuitable for Re-homing	990 (49.1%)	706 (15.2%)	1,078 (51.0%)	796 (11.9%)	1,990 (51.5%)	1,168 (14.8%)	2,463 (50.1%)	1,574 (16.7%)	2,204 (47.0%)	1,293 (15.4%)
Dangerous / Restricted / Other	279 (13.8%)	0 (0.0%)	266 (12.6%)	0 (0.0%)	380 (9.8%)	0 (0.0%)	355 (7.2%)	0 (0.0%)	303 (6.5%)	0 (0.0%)

Note: The Percentages in Table 2 identify the proportion of dogs/cats compared with the total number of dogs/cats euthanised in NSW Pounds.

34. The majority of cats euthanised in NSW are feral or infants (63.4%). The percentage of cats euthanised due to inability to rehome is low, at 4.0%, however, the percentage of cats deemed unsuitable for rehoming is higher, at 15.2%.

35. About 50% of dogs euthanised are deemed unsuitable for rehoming – a proportion that has remained relatively static. Pleasingly, the proportion of dogs euthanised due to inability to rehome has fallen significantly, from 23.0% in 2017 – 2018 FY to 8.8% in 2021 – 2022 FY (-61.7%).

36. The Sub-Committee submits that NSW should aspire to achieve zero euthanasia of animals that are healthy or treatable, and suitable for being rehomed or capable of being rendered suitable rehoming. The Sub-Committee queries the criteria for an animal to be deemed “unsuitable” for rehoming, considering that dangerous, feral and diseased animals are provided for expressly, and suggests that these animals might be rendered suitable for rehoming through socialisation and training.

37. Key strategies for reducing euthanasia rates are:

- a. reducing animal intake (as addressed in respect of Term of Reference (e) above), including undertaking further research to identify effective, non-lethal strategies for reducing urban stray and feral animal populations;⁴²

⁴² In particular, research into the feasibility of trap, neuter, release programs in the Australian context is warranted: Rand, Lancaster, Inwood, Cluderay and Marston (n 4) 2, 22, 24 – 25.

- b. increasing reclaim rates, including by initiatives to increase microchipping and registration;⁴³
- c. increasing rehoming rates, including by:
 - i. maintaining the health and vaccination status of impounded animals;⁴⁴
 - ii. making efforts to socialise and re-home friendly stray animals,⁴⁵ including by implementing animal behaviour and socialization training for staff;
 - iii. developing and maintaining relationships with animal shelters; and
 - iv. introducing foster programs, which can reduce strain on pound resources while helping to socialise and retrain timid or boisterous animals that may otherwise be deemed “unsuitable” for rehoming.⁴⁶

Adequacy of reporting of euthanasia rates and other statistics

38. NSW has the most comprehensive data reporting for animals in Council pounds of all Australian States and Territories.⁴⁷ However, the Sub-Committee’s view is that the quality of reporting may be improved by adopting the following measures.

Separating figures for “feral” and “infant” animals euthanised

39. Currently, feral and infant animals euthanised are reported as a single figure. In the Sub-Committee’s view, these categories are sufficiently different that they ought to be reported separately. The conflation of these categories obscures the real numbers of animals being euthanised.

⁴³ Jaquie Rand, Emily Lancaster, Georgia Inwood, Carolyn Cluderay and Linda Marston, ‘Strategies to Reduce the Euthanasia of Impounded Dogs and Cats Used by Councils in Victoria, Australia’ (2018) 8(7) *Animals* 100, 2; 20.

⁴⁴ Jaquie Rand, Emily Lancaster, Georgia Inwood, Carolyn Cluderay and Linda Marston, ‘Strategies to Reduce the Euthanasia of Impounded Dogs and Cats Used by Councils in Victoria, Australia’ (2018) 8(7) *Animals* 21.

⁴⁵ ‘Management of cats in Australia’, *Australian Veterinary Association* (Web Page, 2 August 2023) <<https://www.ava.com.au/policy-advocacy/policies/companion-animals-management-and-welfare/management-of-cats-in-australia/#:~:text=Policy,objectives%20which%20are%20reported%20transparently>>.

⁴⁶ Jaquie Rand, Emily Lancaster, Georgia Inwood, Carolyn Cluderay and Linda Marston, ‘Strategies to Reduce the Euthanasia of Impounded Dogs and Cats Used by Councils in Victoria, Australia’ (2018) 8(7) *Animals* 21.

⁴⁷ *CIE 2022 Draft Report* (n 39) 44.

40. Further, many infant animals may have good prospects of being socialised and rehomed. By grouping infant animals with feral, there is a danger that reported figures are concealing the number of animals euthanised despite being healthy and suitable for rehoming.

Collecting and reporting reasons for owner-requested euthanasia

41. The Sub-Committee suggests that reasons for owner-requested euthanasia should be recorded and reported, to provide insights into the challenges that bring owners to take this measure. Wherever possible, pounds should encourage owners of healthy animals to surrender for rehoming, rather than for euthanasia.

Collecting and reporting reasons for animals being classed “unsuitable for rehoming”

42. The category “unsuitable for rehoming” is ambiguous. As suggested above, it is difficult to understand why an animal may be deemed “unsuitable” when it is not dangerous, feral, or diseased. Requiring pounds to report the reasons that animals are considered unsuitable for rehoming would clarify underlying reasons, which may be temporary or capable of being resolved. It would also reveal obstacles faced by pounds, which could usefully inform policy development.

Reporting data on euthanasia practices

43. The Sub-Committee has been unable to locate publicly available information about euthanasia practices in NSW pounds. The Sub-Committee submits that reporting would be improved by the inclusion of data as to methods of euthanasia employed, and that such information ought to be publicly available.

Encouraging compliance by pounds to report

44. In FY2022, 122 pounds reported on outcomes for animals leaving their facilities. However, five pounds failed to report.⁴⁸ Measures should be adopted to encourage across-the-board reporting to ensure the availability of reliable data.

⁴⁸ Not included in these figures is the pound that reported incorrectly; The Merriam-Webster Dictionary defines “euthanasia” as “the act or practice of killing or permitting the death of hopelessly sick or injured individuals (such as persons or domestic animals) in a relatively painless way for reasons of mercy”: ‘euthanasia’, *Merriam-Webster Dictionary* (Web Page, 2 August 2023) < <https://www.merriam-webster.com/dictionary/euthanasia>>. In the present context, the term is used to describe the deprivation of life in a broader set of circumstances, including for reasons of convenience. For this reason, the Sub-Committee prefers the term “killing”, but has used “euthanasia” in this submission, in order to remain consistent with the terminology adopted in the terms of reference; Jaquie Rand, Emily Lancaster, Georgia Inwood, Carolyn Cluderay and Linda Marston, ‘Strategies to Reduce the Euthanasia of Impounded Dogs and Cats Used by Councils in Victoria, Australia’ (2018) 8(7) *Animals* 21.

45. The administration of Council pounds is a public function. It is the Sub-Committee's position that principles of openness, transparency and accountability should apply to all entities exercising public functions. Reasons for euthanasia, and the euthanasia practices employed in pounds are a matter of public interest, and therefore a matter in which the public are entitled to clear and unambiguous information.

The role and challenges of behavioural assessments in New South Wales pounds

46. In NSW, some pounds conduct behavioural assessments to determine whether pets are suitable for rehoming. Behavioural assessments can be used to determine whether surrendered animals should be considered for euthanasia if adoption is not deemed achievable as a result of dangerous behavioural traits. The RSPCA conducts standardised behavioural assessments and their website states that all dogs/puppies available for adoption are 'behaviourally sound' and are 'sociable'.⁴⁹

47. In FY2022, RSPCA Australia euthanised 2,484 dogs/puppies and 6,506 cats/kittens. In relation to dogs/puppies, the majority of cases (67.71%) were due to behavioural issues which the RSPCA have stated were 'severe' and made them unsuitable for rehoming. This included aggression and severe anxiety that the RSPCA reported could not be successfully treated through behavioural modification programs and that 'such issues can compromise the dog's welfare and quality of life, as well as being a safety risk to adults, children and other animals in the community'.⁵⁰ Similarly for cats/kittens, there was a significant portion (23.36%) of cats which were euthanised for behavioural reasons. The RSPCA did not provide further details of these behaviours.

48. In 2012, the RSPCA "temperament test" used to decide whether dogs are rehomed or euthanised was criticised, with claims being circulated that the assessment was being misused and animals were not given the best chance at life.⁵¹ In the behavioural assessments released, dogs scored negatively for behaviour such as barking, trembling and jumping. Dogs who accrued more than 100 points were deemed unsuitable for adoption.

⁴⁹ 'Adopting a dog or puppy', *RSPCA* (Web Page) <<https://www.rspca.org.au/adopt-pet/adopting-dogpuppy>>.

⁵⁰ 'RSPCA report on animal outcomes from our shelters, care and adoption centres 2021-22', *RSPCA* (Web Page) <<https://www.rspca.org.au/sites/default/files/RSPCA%20Report%20on%20Animal%20Outcomes%202021-2022.pdf>>.

⁵¹ Nicole Hasham 'RSPCA criticised over claims test to decide fate of dogs is misused', *The Sydney Morning Herald* (Online 9 October 2012) <<https://www.smh.com.au/environment/conservation/rspca-criticised-over-claims-test-to-decide-fate-of-dogs-is-misused-20121008-279b7.html>>.

49. Standardised behavioural assessments have been shown to have limited predictability for how animals might behave once they are adopted. While behavioural assessments are somewhat effective at predicting stable personality traits such as overall friendliness, fearfulness and anxiousness, it was not a reliable predictor of complex behaviour.⁵² In relation to canine behaviour, the findings show that most evidence is not sufficient to be deemed reliable and valid for routine use in shelters.⁵³ Canine behaviour linked to aggression, food guarding and separation-related behaviour is often context specific and a behavioural assessment might predict how a dog would react in an unfamiliar and possibly frightening situation, but is not indicative of how they would behave in a home.⁵⁴ This is understandably so where animals in shelters are oftentimes traumatised, suffering from isolation, abnormal sleep, overstimulation and emotional stress. Further, behaviours such as food guarding, although undesirable, are not always considered problematic for adopters.⁵⁵ As a result, it is possible that the reporting of these behaviours are overemphasising the relevance of these behaviours to a dog's adoptability.

50. The Sub-Committee accepts that the results from a behavioural assessment may have a role in assisting shelter staff and handlers for safety reasons, but this means that behaviours such as barking and food guarding, which do not inherently pose a safety concern, should be removed from behavioural assessments as a determinant of adoptability.

51. Another limitation of behavioural assessments relates to the time at which they are conducted. Dogs display more aggression when tested two weeks after being admitted to a shelter in comparison to 1-2 days after surrender.⁵⁶ Likewise, a dog's behaviour would likely change after being settled into life at a shelter over a longer period of time. This indicates that behavioural assessments, timed incorrectly, may give misleading information to shelter staff.

52. It is the Sub-Committee's submission that behavioural assessments require testing in a stable environment with minimal exposure to stressors that may otherwise lead to a deterioration in an animal's behaviour. In addition to that, information from behavioural assessments should be considered in

⁵² Clay et al, 'Behaviour Assessments in a Shelter Predict the Behaviour of Dogs Post-Adoption?' (2020) 10(7) *Animals* 1225.

⁵³ Gary J. Patronek et al, 'What is the evidence for reliability and validity of behavior evaluations for shelter dogs? A prequel to "No better than flipping a coin"' (2019) 31, *Journal of Veterinary Behavior*, 43-58.

⁵⁴ John Reilly, 'Temperament Testing in Animal Shelters', *Animal Nerd* (Blog Post, 25 February 2023) <<https://animalnerd.com/temperament-testing-in-animal-shelters/>>; Clay et al, 'Behaviour Assessments in a Shelter Predict the Behaviour of Dogs Post-Adoption?' (2020) 10(7) *Animals* 1225 .

⁵⁵ Federica Pirrone, et al, 'Owner and animal factors predict the incidence of, and owner reaction towards, problem behaviors in companion dogs' (2015) 10 *Journal of Veterinary Behaviour* 295-301.

⁵⁶ Clay et al, 'Behaviour Assessments in a Shelter Predict the Behaviour of Dogs Post-Adoption?' (2020) 10(7) *Animals* 1225.

conjunction with detailed history reports from previous owners⁵⁷ and ongoing reports from staff, trainers and/or foster carers, to ensure that animals in pounds are receiving the best chance of being rehomed.

Concluding Comments

NSW Young Lawyers and the Sub-Committee thank you for the opportunity to make this submission. If you have any queries or require further submissions please contact the undersigned at your convenience.

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See study which shows that the identification of behaviours of dogs measured by the C-BARQ questionnaire upon entry can help create a more comprehensive understanding of a dog's behaviour in a home environment and assist a shelter to identify and monitor behaviour throughout the stay and allow behaviour modification to start upon entry - Clay et al, 'Comparison of Canine Behaviour Scored Using Shelter Behaviour Assessment and an Owner Completed Questionnaire' (2020) 10(10) Animals 1797.