



10th September 2021

NSW Department of Primary Industries

Name Animal Welfare Reform

Email:

animalwelfare.submissions@dpi.nsw.gov.au

RE: New South Wales Animal Welfare Reform – Consultation

To whom it may concern,

The Australian Pet Care Association (APCA) currently represents members Australia wide within the pet boarding, Doggy Day Care and Dog training industry. Refer to Annexure 1 to view an overview and the aims of our Association.

We write to you regarding the release of a discussion Paper published and prepared by the NSW Department of Primary Industries.

We have significant concerns with many proposals, therefore we will not be completing the online survey for feedback, as we are unable to answer any sections to either Agree or Disagree due to a lack of education and information contained within the Discussion Paper. The APCA therefore does not consider that appropriate consultation has taken place, and we seek further information surrounding all areas that have been proposed as part of this proposed reform.

Instead, we submit to you the following Stakeholder Submission, which identifies all our concerns that require further information to be provided on this proposed framework, so that we may enter consultation with NSW Department of Primary Industries and provide our contribution on behalf of our members.

Additionally, the state of New South Wales has been under significant pressure in the last 12 months, with many businesses in a standstill due to the COVID-19 restrictions, and in particular the pet boarding and day care industries which were one of the most significantly affected. We therefore take this opportunity to state that we believe the timing of the release of this discussion Paper and the consultation period is very poorly planned, with many businesses who will be significantly affected by these changes not currently operating and likely not aware of this release.

The APCA looks forward to further consultation and communication with you, so that we may provide proper contributions towards the proposed changes to the Animal Welfare Reform in New South Wales, which will have a significant effect on all pet care businesses within Australia.

Kind Regards,

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STAKEHOLDER SUBMISSION

NSW Animal Welfare Reform – Discussion Paper – Department of Primary Industries

Prepared by Australian Pet Care Association
10th September 2021



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ANIMAL WELFARE REFORM FOR NEW SOUTH WALES DISCUSSION PAPER – REPOSSES

Below are our responses to the individual Sections and proposals that appear in the Discussion Paper and Survey.

The APCA strongly recommends that additional consultation takes place with key industry representatives prior to any further proposals or Discussion papers being issued, who can assist the Department in making the necessary changes to the Act at this time.

The APCA does not support the current proposals, as we can identify numerous detrimental effects that these proposals will have on many industries including the pet boarding , day care and dog training industries.

Section 1: Scope and Definitions

Proposal 1 Replace the existing laws with a single, modern Act

Q. Do you have any comments on the proposal to replace POCTAA, ARA and EAPA with a single, modern animal care and protection law?

The association dose not have any comment on this point and agree with the purposed change.

Proposal 2 Update the objects of the Act

2. Do the proposed objects clearly and effectively explain the purpose of the new laws?

The association believes that the new purposed objects under the Act are unclear and open to misunderstanding.. We strongly urge further consultation with industry and stakeholders once drafted for comment and discussion. What has been communicated to date is unclear.

3. Do you have any comments on the proposal to update the objects of the new laws?

N/A



Proposal 3 Update the definition of animal

4. Do you have any comments on the proposal to update the definition of animal?

The association raises concerns as to how the updating of the definition of ‘an animal’ will align with the minimum care requirements. Such as animals being killed for the purpose of food. When you consider the 5 freedoms that apply to animals the proposed inadvertently contradicts one law unless steps are taken to allow for all possible exclusions necessary to not disrupt farming and distribution of foods.

The comment such as, Fishing is not unintentionally affected by this change?, is a contradiction to the minimum care requirements. Such as, How can you fish, without using a hook which one can argue may cause pain. Under the definition of cruelty it states the term Harm for which continually informs to say pain, cause distress, or cause physical or psychological suffering. This is only one example for which needs consideration that’s not been made clear.

Further industry and stakeholders’ consultations is paramount.

Section 2: Offences and Penalties

Proposal 4 Introduce a minimum care requirement

5. Does the proposed minimum care requirement make it easier to understand a person’s obligation when caring for animals?

At this time, we do not believe sufficient information and examples of how this change would work have been given for APCA to support this change.

Using terminology in the Discussion paper that has not yet been consulted upon or defined means it is difficult to know how this proposal will be interpreted. For example, in the Discussion Paper states *provide for appropriate or necessary confinement, and appropriate exercise that considers behavioural needs and appropriately handle and transport animals*. What is the definition of *appropriately handle and transport animals*? Without knowing this, we cannot know the extent of the effects that this change would bring and hold serious concerns that it would in fact be detrimental to certain industries.

Further industry and stakeholders’ consultations is required.

6. Do you have any comments on the proposal to introduce a minimum care requirement?



We strongly support minimum care requirements. In order to do this, it is likely that a restructure on the way in which minimum care requirements are classed or categorised would be beneficial, however we have concerns over the Categories and examples listed in the Discussion Paper.

Further industry and stakeholders' consultations is a must.

The APCA strongly supports the raising of animal welfare standards through education, and also supports the need to give clearer guidelines within the Act to assist with the decision-making process around prosecuting for offenses.

However, the minimum standard of care should be limited within the Act to include a broad scope for a few key standards, and the rest of the framework for these standards (i.e. specifics such as length of time or frequency to exercise a pet, or pet to human ratios, or minimum enclosure sizes etc) should not be included in the Act. These specific standards should be contained within relevant recommended Codes of Practice relevant to each sector, and constructed with proper consultation with industry professionals to ensure that the standards are relevant, reasonable, and able to be correctly enforced where applicable.

The APCA is of the belief that describing the provision of minimum standards of care should be limited to the above, and any further specific standards to be included in recommended codes of practice relevant to that portion of the industry, and they will need to be many and varied.

Proposal 5 Update the definition of cruelty

7. Does the proposed definition of cruelty clearly communicate what constitutes unacceptable conduct?

The association does not have any comment on this point and agree with the purposed change.

8. Do you have any comments on the proposal to update the definition of cruelty?

The association does not have any comment on this point and agree with the purposed change.

Proposal 6 Introduce new offences and enhance existing offences

9. Do you have any comments on the proposed new and enhanced offences?

New offence – Prohibited and restricted items



The association does not support this provision as we do not believe that appropriate industry consultation has been provided.

The use of items are circumstantial based on the outcome required in order for such tool to be used. The use of such training tools like E collars and prong collars used appropriately and by trained professions have successful outcomes.

It's purposed that licencing in order to purchase and use such items be considered along with educational factsheets to see items be used correctly and properly understood.

Some further points for consideration:

- We need full transparency on what intentions are in and around the use of training tools
- To provide peer group scientific evidence when making claims against certain tools for all parties of the scientific community
- To ensure that considerations of education are put in place before bans and removal are initiated
- To ensure that even representation is sought out and consulted prior to any such amendments taking place

10. Do you have any comments on appropriate exemptions that should apply to the proposed new offence of production or distribution of animal cruelty material?

Possible Licensing scheme in order to purchase and use such items.

Proposal 7 Clarify prohibited and restricted procedures

11. Do you have any comments on prohibited and restricted procedures?

The association does not have any comment on this point and agree with the purposed change.

Proposal 8 Provide certainty for lawful activities

12. Do you have any comments on the proposal to clarify how defences are intended to apply to give certainty to lawful activities?

At this time, we do not believe sufficient information and examples of how this change would work have been given in order for the APCA to support this change.

We strongly support stronger penalties and clearer definitions of offenses for acts of deliberate or aggravated cruelty to animals. In order to do this, it is likely that a restructure on the way in which offences are classed or categorised would be beneficial, however we have concerns over the Categories and examples listed in the Discussion Paper.



Using terminology in the Discussion paper that has not yet been consulted upon or defined means that there is no way to know how this proposal will be interpreted. For example, the Discussion Paper states *Failure to provide a minimum standard of care, such as not providing appropriate accommodation for an animal*. What is the definition of *appropriate accommodation*? Without knowing this, we cannot know the extent of the effects that this change would bring and hold serious concerns that it would in fact be detrimental to certain industries.

It appears that these categories are being used as examples for when a member of the public takes improper care of an animal or causes harm. However, for those industries who are responsible for things such as animal housing or animal handling, there is no clear example or guideline as to how this would affect them.

Further, it is unlikely that the proposed escalating cruelty offences should apply to all animals in all circumstances. This is something that absolutely should be consulted on with individual industries to hear their examples and concerns of where this area would need further investigations before framework is built.

13. Do you have any comments on applying these proposed defences to the serious animal cruelty offences under the Crimes Act 1900?

N/A

Proposal 9 Introduce a modern penalties framework with increased penalties

14. Do you have any comments on the proposal to establish a consistent penalties framework?

The association does not have any comment on this point and agree with the purposed change.

15. Do you have any comments on the detailed breakdown of offences included at Appendix A?

The association does not have any comment on this point and agree with the purposed change.

Section 3: Authorised Officers

Proposal 10 Provide authorised officers with new powers to administer sedatives and/or pain relief to animals

16. Do you have any comments on the proposal to allow authorised officers to administer sedatives or pain relief?



The association does not have any comment on this point and agree with the purposed change.

Proposal 11 Enhance authorised officer powers of entry

17. Do you have any comments on the proposal to amend powers of entry to better support compliance?

The APCA does not support all purposed changes. The association believe further consultation needs to be had with key stakeholders and industry.

The associations' view that the following powers:

- **Enter at any time on reasonable suspicion of an offence**
- **Enter at a reasonable time for the purpose of ensuring compliance, on reasonable suspicion that any industrial, agricultural, commercial (i.e. relating to the sale or trade of animals) or licensed activity (i.e. animal research or animal exhibition) is being carried out in respect of an animal on the premises.**

for land type,

- **(premises other than a dwelling)**

should provide reasonable time for entry. The APCA proposed 48Hrs notice.

Further it's unacceptable on the basis of reasonable suspicion unless at the time a clear reason is provided. This otherwise allows for far too much blue sky on the part of an inspector determining a lawful reason to gain access.

Considering the papers comment on page 26 Proposal 13 that says;

Given the robust arrangements already in place, the NSW Government did not support the Select Committee into Animal Cruelty Laws in NSW recommendation to establish an independent office of animal protection.

We find it a stretch to then contradict this statement by then needing to provide powers to inspectors to enter a property with out lawful consent and notice. If inspectors and NSW Police Force as stated have robust arrangements its not unreasonable for a warrant to be gained if such entry is required.

Proposal 12 Provide Local Land Services and council officers with powers in critical situations

18. Do you have any comments on the proposal to allow certain appropriately trained LLS or council officers to exercise a limited set of powers to care for animals in critical situations?



The association does not have any comment on this point and agree with the purposed change.

Section 4: Enforcement Arrangements

Proposal 13 Consider enforcement arrangements

19. Do you have any comments on enforcement arrangements for the new laws?

The association does not have any comment on this point and agree with the purposed change.

Proposal 14 Improve oversight of animal welfare enforcement activities

20. Do you have any comments on the proposal to improve oversight of the enforcement activities of the approved charitable organisations?

The association does not have any comment on this point and agree with the purposed change.

Proposal 15 Amend timeframes and processes related to enforcement agency rehoming of animals

21. Do you have any comments on the proposal to amend approved charitable organisation rehoming provisions to align them with the Companion Animals Act 1998?

The association does not have any comment on this point and agree with the purposed change.

Proposal 16 Standardise statutory limitation periods and authority to prosecute provisions

22. Do you have any comments on the proposal to standardise the statutory limitation period?

The association does not have any comment on this point and agree with the purposed change.

23. Do you have any comments on the proposed approach to standardise authority to prosecute provisions?

The association does not have any comment on this point and agree with the purposed change.



Section 5: Miscellaneous

Proposal 17 Broaden the application of Stock Welfare Panels and improve their functioning

24. Do you have any comments on the proposal to broaden the application of Stock Welfare Panels and improve how they function?

The association does not have any comment on this point and agree with the purposed change.

Proposal 18 Further improve the functioning of court orders

25. Do you have any comments on the proposed enhancements to court orders?

The association does not have any comment on this point and agree with the purposed change.

Proposal 19 Establish licensing schemes and committees in the Regulation

26. Do you have any comments on the proposed approach to licensing schemes and committees?

The association does not have any comment on this point and agree with the purposed change.

27. Do you have any comments on the proposal to consider risk-based principles when reviewing licensing schemes?

The association does not have any comment on this point and agree with the purposed change.

Proposal 20 Make other minor amendments to improve understanding and retain elements of the existing legislation that are effective

28. Do you have any comments on these minor amendments and retained provisions?

The association does not have any comment on this point and agree with the purposed change.



Annexure 1

About the Association of Pet Boarding and Grooming

We are one of the peak bodies representing business owners in the pet boarding, Doggy Day Care and Dog training industry throughout Australia. Established originally in Queensland in 1992 as a non-profit organisation by a group of independent pet boarding facility owners, we provide our members with essential information, help and support to operate their businesses efficiently and effectively. In recent times we have expanded our membership base to include members in other states of Australia and provide the same representation to them.

Aims of the Association

1. To promote a high standard of animal care within our profession
2. To promote a higher professional image for our members
3. To act as a lobby group on issues that concern or threaten our members and their livelihood