



Review of NSW Companion Animals Act (1998) - 2025

“Animal welfare is animal care”

Approved: 4th May 2025

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This submission has been developed in consultation with a range of members of Animal Care Australia as well as the Animal Care Australia Dog Advisory Group and Cat Advisory Group. This submission provides our perspective of companion animals in relation to the Act.

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ACA Background

Animal Care Australia Inc (ACA) represents the interests of all hobbyist and pet animal keepers nationally. Our members are comprised of most major animal keeping representative bodies including those representing dogs, cats, birds, horses, small mammals, reptiles, fish, insects and exhibited animals. Our Advisory Group members also work in the rescue, training, veterinary, care and rehabilitation sectors.

Opening statement

As a nationally recognised animal welfare organisation, Animal Care Australia has advocated for a review of the NSW Companion Animals Act (1998) and supports this current review.

Animal Care Australia would like to thank the NSW Office of Local Government, and the NSW Department of Planning, Housing & Infrastructure for the opportunity to provide this feedback.

NOTE: The Review and Discussion Paper provided an official submission form which has been completed by Animal Care Australia with the following responses to questions outlined within the Discussion Paper.

This version of the submission is simply to maintain consistency and provide an easier format for our members to follow.

Animal Care Australia's submission can be displayed publicly.

Responses to the Review and Discussion Paper

1. Strategic framework for encouraging responsible ownership of companion animals

a. Do you support the CA Act being amended to focus more on encouraging responsible pet ownership outcomes over strict compliance processes?

Yes.

Animal Care Australia has continually called for education over regulation. While regulation is needed to deal with worst case scenarios, currently enforcement is more often used in the first instances instead of educating the public.

Education is the only proven measure of improving animal welfare outcomes as well as enhancing a greater understanding of the impacts pets have on other pets and the neighbourhood.

b. How can responsible pet ownership education be used to manage menacing or dangerous dogs?

With the right education and knowledge, behaviours can be identified by the owners and addressed early. This earlier intervention will go a long way to reducing the number of menacing dogs.

It is important that owners are aware of the requirements for housing and caring for their animals, which includes the need to keep them secure on their properties.

It is also important that education is introduced on the safe use of off lead areas including dog parks where the majority of dog incidents occur.

While any dog can pose a risk it is important that the owners of breeds that have the potential to cause the most damage (ie: biting power and jaw-size) receive education around the proper early training and management of these breeds to try and reduce the risk of incidents.

Further assistance from Councils for pet owners to access dog training and behavioural services will reduce the number of dangerous dogs. This should include education focusing on proper socialisation of all breeds of dogs with humans and other animals specifically. Any educational plan must be more than just advice on a website – running face-to-face information sessions for the public, and/or formal training classes, will increase community engagement.

c. How could the legislation be improved to motivate better dog owner behaviour and encourage owners to manage their dogs more responsibly? (For example, what does responsible dog control in public look like?)

We already have sufficient legislation addressing this. The problem lies in policing that legislation, and there are many factors that dictate why this is the case. Underfunding and understaffing of local government animal control functions is a primary issue. The use of third-party charitable organisations to police animal welfare legislation without giving proper guidance, oversight, or accountability is another major issue especially when the primary organisation uses force and punishment as its motivation rather than education and assistance methodology.

Improvements, benefits, and rewards relating to education, motivation, and accountability of dog ownership and dog owner behaviour can be achieved if Councils (and state government), become more pro-active and less punishment oriented. Punishment tends to create hidden behaviours, non-compliance, etc.

There needs to be assistance provided in specific socio-economic situations where the financial means is not available to assist dog owners such as access to training, free or subsidised desexing, vaccinations, microchipping, parasite prevention and treatment and annual health checks to ensure the ongoing health and welfare of all dogs.

Too often we see high-cost fees, and penalties rather than supportive measures where an owner wants to do the right thing but is unable to do so.

Every year Councils open new dog parks but do not provide easy access or services in these areas to have qualified trainers present on promoted days to offer advice etc to owners on the safe use of these areas and other public spaces. These areas are not usually staffed and even such a thing as a dog rushing at another dog can pose problems, while the average person is not

educated in proper dog management. Many are under the false impression that because their dog is generally friendly it should be able to do what it wants and is safe. Dog owners pay registration to Councils and some of this money should be used for in-person education, both onsite and in Community Halls etc.

Also see the points highlighted in this same question related to cats. The primary answers are not species specific - they relate to responsible ownership as a whole.

It should be noted that Animal Care Australia's proposed Animal Welfare Commission ¹ will provide Animal Welfare Officers in each Local Government Area, whose primary responsibility is education.

d. How could the legislation be improved to motivate better cat owner behaviour and encourage owners to manage their cats more responsibly? (For example, cat containment)

Improvements, benefits, and rewards relating to education, motivation, and accountability of cat ownership and cat owner behaviour can be achieved if Councils (and state government) become more pro-active and less punishment oriented. Punishment tends to create hidden behaviours, non-compliance etc.

There needs to be assistance provided in specific socio-economic situations where financial means is not available to keep cats contained, or such as free or subsidised desexing, vaccinations, microchipping, parasite prevention and treatment and annual health checks to ensure ongoing health and welfare.

Far too often, posts can be seen on Facebook asking for vet advice or assistance because a pet needs veterinary attention but the owner is unable to afford the additional costs.

Where there are cultural differences, we need to understand what influences the decisions being made in order to formulate a program designed to influence and change the behaviours that are not seen as responsible pet ownership.

One Welfare solutions offer the most substantial impacts not only on animal welfare but ensuring responsible pet ownership. These include but are not limited to:

- ✓ funding desexing programs. Ideally offered free to residents (owners and semi owners)
- ✓ recognition of semi-ownership without the legal implications that may come with that – such as fines for non-microchipping, etc.
- ✓ promoting and offering assistance with acquiring and installing cat enclosures with advice and support from Councils rather than the burden of potential DA's, fees etc.

There is sufficient legislation in place to influence responsible pet ownership but the key is identifying those who do not display responsible cat ownership to understand and change their behaviour. Current legislation allows for cats to not be confined to their owner's property, which

¹ [Animal Care Australia's Animal Welfare Commission](#)

can make it difficult to ascertain whether any given wandering cat is owned or unowned – especially as many pet cats may not be microchipped or registered with Council.

Some of these initiatives would include:

- Public education campaigns (online, in vets' offices, schools) showing contained, desexed, microchipped cats are healthier, happier, and safer.
- Myth-busting resources (e.g., "Cats don't need to roam to be happy!" with tips for creating enriching indoor and backyard spaces).
- Promote fun ideas like building a "catio" (outdoor cat enclosures) to allow cats to explore safely while still being confined to their property.
- Promoting harness training for cats so they can be walked supervised and safely outside to experience different views, sounds, sights, and smells.
- Make accessing help easier – reduce the 'stigma' of being a 'bad cat owner' and the persecution by certain cohorts within the community. Current social rhetoric condemns cat owners who allow the cat to roam, or where it is not desexed, and the biggest fear that their pet is going to be seized. The vitriol needs to be changed to encourage these owners to come forward and seek the assistance needed to change their circumstances.
- Identifying the effectiveness of community education programs and responsible pet ownership is difficult without any studies conducted in Australia and without specific statistics or surveys.
- There needs to be clear, targeted and easily accessible information for education programs. Currently, unless you know exactly where to look, it is almost impossible to obtain information about pet ownership and responsibilities. Many people resort to misinformed posts on social media and/or word of mouth. This leads to misunderstanding and incorrect education being passed on, and like 'chinese whispers' the myths continue to grow.
- Statistics are needed on those who are not responsible pet owners. This is the most important challenge to identify those people and approach them in a way that they feel safe and that there will be no consequences for the answers to their questions.
- Establish an emergency assistance fund for temporary boarding and veterinary care to help keep pets with struggling owners.

e. Are there other matters that should be considered?

Microchip records: There is currently a substantial issue with there being too many microchip registers and not a national based register.

Equally there is zero education reminding pet owners to regularly check the viability of their pets' microchips. Microchips fail, fall out, or move (travel to different locations in the pet). These failures lead to pets not being correctly identified, returned to their owners, being classified as 'stray' and so on.

While we seem obsessed (and often rightly so) with desexing our pets, we are completely oblivious to the flaws and failings of microchip reliance.

Fund Education: If the Government is serious about educating pet owners to improve their behaviours, there needs to be funding provided to allow programs for proactive education, assistance, and early intervention.

Currently, Councils provide some education – that is hidden under countless drop-down menus and with search criteria typically not relevant to the actual subject.

While Animal Care Australia acknowledges the Office of Local Government’s Responsible Pet Ownership Program, it is small and by their own admission, targets a small audience: “conducts approximately 1,500 preschool and school visits to around 40,000 students annually throughout NSW...”²

It is also limited in the material it is educating:

Living Safely with Dogs – An interactive program for preschool children (4-5 years old) that teaches key pet safety and responsible ownership using suitability-tested dogs, storytelling, song, dance, and role play.

Living Safely with Pets – Designed for primary school children (5-8 years old), this program reinforces key pet safety messages through engaging, hands-on presentations.

We Are Family – Offers a guide to nurturing the child and pet relationship from pregnancy to preschool years. The program makes information resources available through hospitals with antenatal programs and all maternal and child health centres throughout NSW.

None of the above cover the issues being dealt with within the questions of this Review, or the appropriate target audience.

There also needs to be better education for the average ‘family breeder’ that still believes their dogs need to have a ‘litter to experience life.’ As outlined further in this submission, a Responsible Pet Owners Guide should be developed in order to educate new owners of their obligations.

Councils could also hold regular ‘courses’ specific to different themes and breed-specific, for example: ‘ensuring your puppies/kittens are being raised properly.’ These in-person courses offer greater opportunity to educate the importance of microchipping, registering etc.

Improve the definition for cats

Animal Care Australia has responded and contributed to several reviews, proposed legislation amendments and cat management/containment strategies across the country. These include federal, state, and local government. What is clear to us is the uncoordinated use of different definitions of cats with some striking misnomers ‘thrown in for good will.’ It is vital that any cat management strategy not only sets out to define the varying cat populations it is intending to include but that a nationally recognised and agreed set of definitions can be adopted.

Animal Care Australia recognises and recommends the following definitions:

² [OLG Education Program](#)

Domestic (pet) cats have some form of dependence on humans, either directly or indirectly. They can be classified into three subcategories based on their relationship with humans. These subcategories are:

Owned — these cats are identified with and cared for by a specific person and are directly dependent on humans. They are usually sociable although sociability varies.

Semi-owned — these cats are fed or provided with other care by people who do not consider themselves owners. They are of varying sociability, with many socialised to humans, and may be associated with one or more households.

A subset of these include **‘working cats.’** These are farm/barn cats and warehouse cats. Working cats provide a valuable service to landholders and may or may not be cared for by an owner.

Unowned — often also referred to as ‘stray cats’ - these cats are indirectly dependent on humans, with some having casual and temporary human interaction. They are of varied sociability, including some being unsocialised, and may live in groups (e.g., at rubbish tips, shopping centres and other urban environments where they can scavenge for food).

Feral cats are unowned, unsocialised, have no relationship with or dependence on humans, and reproduce in the wild.

Definitions matter, as does the environment that the cat lives in, and these varied populations of cats need to be considered separately when looking at who owns and is responsible for those cats.

A clear distinction needs to be made about the treatment of the main categories of cats – domestic (pet) cats, unowned (stray) cats, and feral cats. Strategies dealing with unowned cats will assist in reducing the feral cat problem as unowned cats are most likely to have been a pet cat at some point and socialised with people. The longer these cats remain unowned increases the potential for them to fall into the feral category as their contact with humans decreases.

Seizing and euthanising of cats: CA Act clause 32 Action to protect persons and animals against cats:

(1) Any person may lawfully seize a cat if that action is reasonable and necessary for the protection of any person or animal (other than vermin) from injury or death.

(2) (Repealed)

(3) If a cat that is not under the effective control of some competent person enters any inclosed lands within the meaning of the Inclosed Lands Protection Act 1901 and approaches any animal being farmed on the land, the occupier of the land or any person authorised by the occupier can lawfully injure or destroy the cat if he or she reasonably believes that the cat will molest, attack or cause injury to any of those animals.

(4) An authorised officer who finds a cat attacking or harassing an animal (other than vermin) within a wildlife protection area (as defined in section 30 (1) (b)) can lawfully injure or destroy the cat if there is no other reasonably practicable way of protecting the animal.

(5) A person who takes action under the authority of this section that results in the injury to or death of a cat must—

(a) take reasonable steps to ensure that an injured cat receives any necessary treatment, and

(b) report the matter to an authorised officer (unless the person is an authorised officer) and comply with such reasonable directions as the authorised officer may give for the purpose of causing the cat to be returned to its owner or taken to a council pound, and

(c) take reasonable steps to inform the owner of the cat.

(6) An authorised officer is not to give a direction under this section for the purpose of causing a cat to be taken to a council pound unless the authorised officer is satisfied that the owner of the cat cannot be identified.

(7) Nothing in this section authorises a contravention of the Prevention of Cruelty to Animals Act 1979.

(8) The authority conferred by this section to destroy a cat extends only to authorising the destruction of the cat in a manner that causes it to die quickly and without unnecessary suffering.

Animal Care Australia notes there has been quite the ‘song & dance’ from a number of cat rescuers who oppose this clause.

Animal Care Australia would not support this clause being restricted to just authorised persons, if the definition of such authorisation were to include cat rescues and exclude members of the public – in particular, farmers protecting their property from feral cats, currently permitted by Section 32(3)

These same rescues have made argument that breeders should be stopped from breeding and should not be self-regulating, dog trainers should be regulated and yet call for no regulation for themselves.

There is also a claim that cats can be trapped and killed without consequence because of the existence of this clause. Section 32(8) contradicts the claim of ‘no consequences’. Animal Care Australia acknowledges there is little doubt certain individuals would be euthanising cats without meeting the requirements of this section. That is equally true across the board and is not solely an issue relating to incorrect methods of euthanising a seized cat.

The further claim is there should be an added requirement for individuals to contact Council about nuisance cats in order for a Ranger (authorised officer) to be responsible for trapping the cats. While Animal Care Australia does not oppose such a requirement, it does raise concerns relating to:

- a) The added workload for Council Rangers
- b) What happens in rural areas where Council is thousands of kilometres away and it could be days before a Ranger can attend?
- c) If authorisation could be provided electronically for an individual to trap – how is that followed up? How is the outcome reported? Most importantly – how would that be any different to existing Section 32 sub-sections (3) through (8) that currently require the inclusion of an authorised officer?
- d) How would this additional clause prevent individuals from trapping and euthanising cats when as has been pointed out certain individuals are already ignoring Section 32 and its requirements?

The answer is that it would require someone to be reported. If such a report were to be made it is Animal Care Australia’s position that the situation and circumstance could be dealt with under the existing sections and legislation.

Animal Care Australia recommends greater education and information should be provided by both government and Councils that clearly outlines the situations and responsibilities of the community when they seize a cat (or dog).

Roaming/wandering/stray/feral cats are not monitored, controlled and subsequently the welfare of these cats is then not assured and at risk. The best animal welfare outcome can only be achieved when cats are removed from those scenarios.

Again, the One Welfare solutions will provide greater outcomes.

2. Compliance and enforcement role of councils

a. What changes to NSW laws, regulations, codes, or guidelines could be provided to councils and other enforcement authorities to better support responsible pet ownership?

First and foremost, Councils should not be able to ‘create the rules as they go,’ especially without full consultation with their residents and more importantly key stakeholders. The consultation process needs to be legislated in such a manner that requires:

- consultation to include a set period of consultation time for feedback.
- Council to communicate directly with its residents. A post on their website buried under multiple drop-down menus is NOT appropriate advice.
- Council to accept written submissions as part of a consultation. A simple ‘yes/no’ survey is NOT a proper consultation process.
- Council to directly contact animal-based organisations within their Local Area as well as state and national organisations – especially cat/dog keeping associations, and registered rescues. The RSPCA is not the only stakeholder in this arena. In fact given they are walking away from accepting surrendered dogs and cats and placing the burden back on to Councils – they should be the last organisation to be considered a stakeholder.

Instead, the State should establish a ‘Model guideline’ for all LGAs is developed that is consistent and can be implemented across the board. This guideline should be developed in consultation with Animal Care Australia and other stakeholders. The Guideline could have a process for exceptions to specific locations (i.e., Sydney metro vs Far West NSW or Urban vs Rural/Regional) built in. LGA’s that have a large percentage of National Parks in their boundaries might have specific differences based on that LGA. The Office of Local Government should approve these exceptions – not at the whim of a Mayor or Council.

Resident and stakeholder engagement ensures transparency and allows all parties to have input into laws that directly impact them. Again to be clear, the RSPCA is not included as a stakeholder as they have wiped their hands of CA Act matters

The ambiguity within the existing Codes of Practice and Acts needs to be reduced so they are easier to understand and follow.

It is Animal Care Australia's position that under an Animal Welfare Commission³, Councils would have an Animal Welfare Officer (or more than one) for the purpose of education and compliance checking, etc. The monies currently and previously allocated to the RSPCA should be re-purposed as it is the Local Council that does more leg work than the RSPCA.

b. How could NSW laws, regulations, codes, or guidelines be improved to support councils to better manage dangerous and restricted dogs?

This is not necessarily an issue that can be easily addressed. Unfortunately, dangerous dogs cannot be determined until an incident occurs.

Blanket banning or restricting ownership of specific breeds is not the answer as all breeds of dog can inflict harm to people or other animals under the 'right circumstances'. It is the level of harm that can be inflicted by the size and power of a dog's jaw etc that raises the level of concern and serious harm outcomes of an attack.

If a dog has been declared 'dangerous' under the Act, then regular monitoring of the dog and how it is kept is crucial to making sure that no further incidents can occur. In a good number of cases, these dogs may be rehabilitated with the assistance of qualified professional trainers, and there needs to be an allowance for that to occur.

NSW Coroners recommendations to the Minister for Local Government and the Office of Local Government:

Note: for the purpose of this section, a 'declared dog' refers to a dangerous, menacing, or restricted dog.

1. *The Minister and the OLG review the adequacy of the penalties for non-compliance with registration and identification requirements for dogs in the CA Act and the Regulation.*

Supported. Animal Care Australia also highlights the need for government to ensure that there is sufficient acknowledgement and assistance for pet owners in low socio-economic backgrounds to register their pets and in doing so reducing potential non-compliance.

2. *The Minister and the OLG, in consultation with councils, develop and implement a Statewide public awareness and education campaign to educate dog owners and the community generally about the risks posed by dogs and how safely to interact with them*

Supported. Animal Care Australia strongly recommends the consultation, development and implementation of any education campaign also involves key stakeholders, particularly dog breeding/keeping associations, professional dog trainers and behaviourists. We would also hope the education campaign will be worded in a better manner than implying 'dogs pose a risk.'

3. *The Minister and the OLG, in consultation with councils and other stakeholders, introduce a licensing requirement for dog ownership, which may involve particular*

³ [Animal Care Australia's Animal Welfare Commission](#)

licence conditions calibrated for particular breeds of dogs and with applicants being required to undergo education with respect to safety and risk management.

Partially supported. It is absolutely unnecessary for every dog owner to be licensed. If the purpose is to gain a greater understanding/record of dog ownership then this can be achieved via the dog registration process. Animal Care Australia strongly recommends a licensing requirement with appropriate conditions and education for the continued ownership of dogs that have been declared dangerous is implemented – however this is simply an extension of the conditions currently attached to the declaration of a dangerous dog.

Government should also give greater consideration to providing free education to all dog owners as part of the incentive to register their dog. This education/course could be run by dog trainers and highlight appropriate handling methods and what signs to look for if behavioural issues begin to develop.

It is important to recognise and note that while particular breeds have the ability to cause greater injury – all dogs have the potential to become behaviourally challenged or dangerous. This comes down to how they are being treated by their owners. In an ideal world all dogs would undergo some form of training and owners receive education. However, it is impractical in the real world for this to occur and so the better focus should be on providing access to education and training where it is needed.

4. The Minister and the OLG examine the adequacy of the maximum penalties for the offences provided by ss 12A, 13, 14, 16 and 17 of the CA Act.

Partially supported. Animal Care Australia notes there is a difference between the maximum penalties related to actions of a dog/owner and those of dangerous/restricted dogs and their owners.

12A: Animal Care Australia does agree the adequacy in relation to a ‘declared dog’ is inadequate, as the owners of these dogs are fully aware of their responsibilities in being able to continue to own these dogs.

13: Animal Care Australia finds the Penalty Notice of \$330 for an off leash/controlled dog is adequate. The rise to a Court issued penalty of \$1100 is adequate. \$11,000 for a ‘declared’ dog is adequate where the dog is muzzled and may have escaped the owner’s grasp. A non-muzzled ‘declared’ dog, off leash/control requires a greater penalty, including disqualification order preventing the owner from keeping dogs again.

14: As per Section 13.

16: The issue of a Penalty Notice of \$1320 for a dog (not declared) attack is adequate as a first offence and \$11,000 for repeat offence or other reason as issued by a Court is adequate. Where ss16 1AA is met the maximum penalty issued by a Court of \$22,000 or 2 years imprisonment is adequate. In this Section we believe the maximum penalties able to be issued by a Court for a ‘declared’ dog of between \$55,000/4 years and \$77,000/5 years imprisonment are adequate.

17: Animal Care Australia supports the NSW Coroner on this section as being inadequate where a dog is encouraged to attack by its owner or person in control.

5. *The Minister and the OLG amend s 16 of the CA Act to delete subsection (2)(b).*

NOT supported.

16 Offences where dog attacks person or animal

(2) It is not an offence under this section if the incident occurred —

(b) as a result of the person or animal trespassing on the property on which the dog was being kept, or

While Animal Care Australia understands the emotive reason behind this recommendation by the Coroner, it cannot be supported without exemptions. It should only be an offence for a dog to attack a trespasser where the boundary fencing or detaining enclosure of a dog has not been maintained in such a manner to contain the dog within the property or within the enclosure while providing ease of access to that property or enclosure. Any person (or animal) that manages to climb or access a property or enclosure without the expressed permission of the property owner should not be considered as a victim if attacked by a dog protecting its property or owner.

The circumstances of this case saw a dog that should have been declared menacing, kept un-contained. The history of it attacking a neighbour's dog is not relevant where it was not proven that the other dog had ease of access (i.e., a gap under the fencing). A dog and its owner should not be held accountable for the actions of a child that enters a property by climbing a fence etc. While deeply upsetting unless the child made easy access under or through non-maintained boundary protection - that is on the child and not the animal.

Animal Care Australia would support further amendments (once reviewed) that outline sample scenarios where it becomes an offence for when a trespasser is attacked.

6. *The Minister and the OLG amend s 18 of the CA Act to broaden the scope for exercise of that power.*

Tentatively supported. Section 18 is already comprehensive. Animal Care Australia is unsure what else needs to be added. Therefore, Animal Care Australia cannot support until the proposed amendment is available.

7. *The Minister and the OLG amend:*

(a) the interim control obligations and interim powers enlivened under ss 36 and 58B of the CA Act upon the giving of a notice of intention to declare a dog (i) dangerous or menacing or (ii) restricted; and

(b) s 58(4) so as to make clearer its intended operation.

Tentatively supported. Animal Care Australia cannot support until the proposed amendment is available.

8. *The Minister and the OLG introduce a general power in the CA Act for an authorised officer to direct an owner or person in control of a dog to secure the dog with a muzzle and/or lead for a specified period.*

Supported. Subject to the review of proposed amendments, as Animal Care Australia recognises there may be occasions where a muzzle is needed for a dog that is not a ‘declared’ dog.

Animal Care Australia questions the inclusion of a lead as Section 13 already provides the requirement for a dog in public to be under the control by a lead, chain etc.

9. The Minister and the OLG amend s 58C of the CA Act (a) regarding the prohibition on an authorised officer making a restricted dog declaration if the owner provides a written statement by an approved breed assessor or approved temperament assessor; and (b) to require breed and/or temperament assessors to provide an outline of the assessment carried out (including, for the temperament assessment, where, over what duration, and in what conditions).

Not supported. This is categorically not supported. Authorised officers are NOT animal behaviourists or dog trainers. While Animal Care Australia acknowledges many officers MAY become well-versed in recognising some dog behavioural issues, they are not the professionals or qualified in this space.

Equally, authorised officers are not experts on determining dog breeds. This is the role of the ‘approved breed assessor’ and should not be overridden by an authorised officer.

This is an excess of power to an authorised officer.

10. To the extent not already done, the Minister and the OLG investigate, or continue to investigate, facilitating reasonable access to DNA testing in NSW to assist breed identification of dogs.

Supported. Animal Care Australia fully supports this. In fact, it should be a mandatory requirement whenever ‘declaring’ a dog.

c. Are the current enforcement provisions under the Act (including penalties for offences) appropriate? If not, what enforcement provisions should be changed?

Animal Care Australia does not take issue with the existence of fines for certain offences, but as we have established the better approach is education and improving knowledge for better ownership, then some of the lower-level offences should be a warning with time to comply rather than a straight up infringement (fine).

It does not feel in the spirit of education and improving pet ownership to punish (fine) the person who may be unaware of their responsibilities. Today there would be more people who are unable to afford to pay the fines and would then potentially have further costs for not paying those fines and then we have the situation where their pets are seized without being given an opportunity to remedy the situation. In effect, we have Councils and rescues stating they are over-crowded with pets and punitive legislation requiring more pets to enter the system rather than taking preventative measures and applying some common sense. If an individual blatantly ignores the attempts to educate and does not follow through with instructions, then the need for a scaled approach to infringements is appropriate.

As previously stated, there are many circumstances where people are not aware that they have breached a requirement of the Act, and the first interaction should be education and a warning.

Animal Care Australia recommends a better scaled approach:

- First offense: Formal warning and educational materials.
- Second offense: Fine and mandatory containment order.
- Repeat offenses: Higher fines, potential impounding, and mandatory desexing.

d. Are there other compliance and enforcement matters that should be considered?

Moratorium of fees: An effective option could be to enact a moratorium on extra registration fees/charges for un-desexed pet dogs/cats – for 12 months – especially given the recently new requirement for all dog breeders to be registered as a breeder. As this process will form part of the NSW Pet Registry there will be resulting data that highlights a large number of animals that are entered that had not previously been microchipped or are desexed. The ‘punitive’ fees for entering a non-desexed animal is more likely to result in non-compliance of the legislation.

Availability of authorised officers: Officers are only available during weekdays and regular business hours, and a lot of issues requiring their attention happen outside those hours – meaning that either Police or local vets are ending up having to try to cover that responsibility if/when they can.

Stray animals taken to, and held by, vet clinics MUST be collected by Council as early as possible (within 24 hours maximum) and this should not be delayed because it is a weekend.

Absent or unavailable Officers has resulted in an increase in callers reporting a stray animal being advised that the caller must secure the animal themselves and wait for Council to get around to collecting the animal. This needs addressing urgently, particularly in relation to dogs, as it is a major risk for members of the public (and their own pets) to have to capture and contain a stray animal unknown to them for an undetermined length of time. In the case of cats, this ‘advice’ leads to them being trapped, not reporting of the seizure, and the cats being euthanised by the annoyed caller.

3. Companion animal population and rehoming

a. What more could be done to reduce stray and homeless cats and dogs in NSW?

At the risk of repetitive responses:

- Education & promote options if the owner cannot keep their pet. Many people feel embarrassed and sometimes harassed when needing to surrender their pets. They are often treated poorly by shelter staff, the RSPCA, and rescue organisations. This is amplified if the animals have not been microchipped or desexed. Surrendering fees are also a burden.
- Improved information and understanding about why people abandon their pets – remove the stigma!

- Greater research into how schemes such as Trap, Neuter, Return could be implemented in some urban environments. There are few Australian-based research documents available on these schemes. Animal Care Australia notes those from Queensland and the Campus Cats NSW research documents were produced in part by the same individuals.
- Free or subsidised desexing to assist in mandatory desexing by 6 months (unless owned by a registered breeder or has a veterinary exemption from the owner's regular vet).
- Access to financial assistance for large costs such as veterinary. Alternatively, Councils could provide access to their veterinary services at a discount. This would apply to low-socioeconomic communities.
- Establish food bank style assistance for those struggling to feed their pets.
- Review of and greater control of animals being able to be sold or rehomed via online marketplaces such as Gumtree where there is little to no enforcement by the platform owners.
- Removal of the social stigma regarding cats (of all subsets – owned, community colonies, stray, feral) and so-called dangerous dog breeds.
- Education around dogs (and certain cat breeds) not being 'money makers' and responsible pet ownership and responsible breeding includes making sure you have buyers before you start breeding pets. The reduction in responsible breeders and the increase in irresponsible breeders has resulted in an increase in the value of puppies (more so than kittens) and this incentivises more breeding rather than responsible breeding.
- Education of the advantages of registering and microchipping so that your pet can be returned efficiently should they escape. This also avoids the risk of euthanasia should they be found and taken to a shelter/pound.
- Education and accessible training for dogs and their owners. A dangerous dog is most likely to exist because of the lack of understanding of the breed specific traits and needs. Pet buyers need to be more aware of the pet they are obtaining.
- The above point also feeds into the need for shelter and rescue operators to be more transparent about the known behaviours and the general traits of the species they are trying to rehome.

b. What changes can be made to NSW laws, regulations, codes, or guidelines to reduce the number of companion animals entering the pound and rehoming system in the first place?

Legislation that immediately punishes a pet owner for failing to desex, register or microchip their pets needs to be re-calibrated to a scaled system where education is the first response – not punishment, bullying or abuse.

Exemptions on microchipping and breeding of working dogs should be removed. All dogs should be microchipped regardless of their breed or 'purpose.' All aspects of breeding regulations of dogs should apply to all dogs – again regardless of the breed or purpose.

Greater awareness of the NSW Pet Registry is needed. Most dog and cat owners are unaware that it exists. The majority of those who are utilising the Registry are from sales related to members of breeding associations, however these breeders make up only a small percentage of the number of individuals breeding dogs and cats.

While many organisations call for the banning of so-called ‘backyard breeders,’ Animal Care Australia instead calls for greater awareness of the existing legislation, including the Code of Practice for Breeding Dogs and Cats in NSW, the most recent ‘puppy farm’ changes to POCTAA, and of course this Act – the Companion Animals Act. As a part of this awareness, the recent changes to POCTAA requiring all breeders to be registered must be prioritised.

It is well known that pure-bred and purpose bred dogs are mostly not the dogs ending up in shelters and pounds, with the exception of working dog breeds and their cross-breeds, that are regularly surrendered due to a lack of understanding of their needs. The recently introduced legislation must target individuals that continue to breed for the ‘money’ or because they believe their dog must breed in order to fulfill its life purpose. It has to be stated again that the over regulation of registered breeders that are already regulated by their governing bodies, doing the right thing, etc has resulted in an increase in the irresponsible ‘lay-person’ breeders trying to fill in the gaps.

Regulations **MUST BE** introduced requiring ALL rescues and rehoming services to be registered with the NSW Government. Along with this a Code of Practice outlining how rescues must be maintained, as well as mandated reporting of all animals that enter and leave (regardless of how they leave). Animal Care Australia receives an average of 3-4 emails per month from individuals who have taken on a rescue/rehomed animal under what can only be described as false pretenses. For reasons outlined below in our response to rehoming matters, these animals make their way back to pounds and rehoming organisations. This **MUST** be stopped.

In addition, the following should be considered:

- ✓ Creation of a Responsible Ownership Guide which includes pet care basics, pet containment, clear information about microchipping & registration, importance of desexing, etc

This Guide could be rolled out through a variety of sources – dog & cat registration bodies, breeders, vets, pet supply companies and if listed online the URL could be provided by sellers at the point of sale.

It also could include better education about cat containment to the boundaries of an owner’s property (whether that is the four walls of an apartment or the boundary of the acreage they live on). Government pursuing the advancement of technology for virtual fencing technology to expand into appropriately sized cat-collars would also benefit this space.

- ✓ Continue to improve laws that do not discriminate against pet owners who require rental accommodation. While the laws have recently been changed, they still do not go far enough to protect the rights of new tenants to bring pets into their homes.

- ✓ Explore options to offer intervention to work with a pet owner to avoid the animal being surrendered, such as behaviour support, vet assistance or short-term fostering.

c. For companion animals needing to enter the ‘pound’ system, what could be done to increase rehoming?

Pounds MUST employ qualified animal behaviourists and/or trainers who can more appropriately identify, evaluate, and re-train ‘difficult’ animals. This applies to both cats and dogs.

Far too many cats are currently labelled as feral when instead they are simply terrified.

Far too many dogs with behavioural issues are being ‘drugged into submission’ for the purpose of getting them rehomed. This backfires when either the drugs wear off or the owner attempts to renew the medications and discovers the real purpose of the medications. Council Pounds are not the only culprits guilty of this practice.

That said, not every animal can be rehabilitated and rehomed safely into the community – and palming such animals off to the ‘rescue industry’ is not the answer. Sometimes the kindest act for an animal is to relieve their mental suffering permanently.

Expanding and improving the currently regulated pound system should be given a higher priority rather than funding the non-regulated ‘rescue industry.’

Additionally:

- ✓ Establish an Emergency Assistance Fund (for temporary boarding, vet care) to help keep pets with their owners unless the circumstances are to be permanent. This should be a State-based Fund.
- ✓ Councils need to improve the marketing and visibility such as personality bio’s, better quality photos (similar to marketing done by AWL, Sydney Dogs & Cats Home, Cat Protection Society) of animals needing to rehomed.
- ✓ Provide Government Grant opportunities for rescue organisations who meet approved criteria.
- ✓ Explore other avenues of advertising – pop up events, partner with local businesses & media outlets -- the more places the animals are seen, the higher the chance they find a match. Again, the Animal Welfare League have had success in this space.

d. Are there other dog and cat population and rehoming matters that should be considered?

With the increase in homeless animals there has also been an increase in the number of private ‘rescue’ groups. While in certain cases this is a good thing, in many other cases it is proving to be a recipe for disaster. It is important to acknowledge that there is no current legislated or licensing requirement for individuals to ‘create’ a rescue/rehoming organisation. Simply having a big heart and desire to ‘save’ animals from death row is not enough.

This means there is no real approval process. Animal Care Australia is aware some Councils are unaware of the rescues/re-homers operating with their Local Government Areas.

While breeders and boarding facilities are required to operate under a specific Code of Practice and other Regulations, the rescue/rehoming industry – and let's face it, it is an industry – is not subject to any of those, unless a specific animal welfare complaint is made, upon which compliance of the conditions are limited to the basic animal welfare requirements. While it has been stated they should be 'considering' the mandated requirements of the NSW Animal Welfare Code of Practice No 5 - Dogs and cats in animal boarding establishments, the Preface of this Code is clear:

"This code is designed for everyone involved in the holding and care of dogs and cats for boarding. By adhering to the code, people involved in the animal boarding industry demonstrate to the general community their concern for the welfare of the animals in their care."

Many rescues argue they are not boarding organisations, and in fact given a boarding organisation is a commercial enterprise, their not-for-profit status would show they cannot be considered a boarding facility.

Therefore currently, there is no effective way of monitoring all animals that go through the entire rescue network.

Some rescuers are in fact hoarders and do not rehome the animals at all – and this creates even greater issues of transparency, animal welfare concerns, etc.

This equally highlights the hypocrisy of the animal rights/animal protection ideology: all breeders must be licensed, regulated, and must keep their animals in appropriately sized enclosures, with no overcrowding etc. While rescues have no licensing requirement, no regulations, no mandated enclosure sizes, no restrictions on over-crowding etc because beyond the basic requirements of POCTAA, none of the Codes that fall within its Regulations apply to this industry.

ALL rescue/rehoming organisations MUST be registered with the Office of Local Government, and subject to mandatory regular (bi-annual or quarterly) reporting of their rehoming activities – rather than annually as is current practice for those that voluntarily register.

As part of the approval process, Animal Care Australia recommends that anyone running, or involved in overseeing, a rescue organisation has mandatory basic animal care qualifications (ie. Cert II in Animal Care or better). Foster carers with such groups should also be able to demonstrate that they have the necessary skills to rehabilitate the animals they are tasked with caring for.

Registered breeders with recognised breeding associations must be able to show they are able to satisfy the requirements for breeding dogs/cats, so there is no reason similar requirements should not be applied to those wishing to 'care' for animals as a rescue/rehoming organisation, or even to become a foster carer for that organisation.

No rescue/rehoming organisation (including the current charitable organisations that shelter/rehome) should be considered for government funding unless they are registered and

regulated. Continuance of funding and registration must also include the recording of a proven track record of successful rehoming practices. This will require further upgrades to the NSW Pet Registry to allow a search to track how many times a particular animal finds itself in a pound/shelter or another rescue. This should assist in ascertaining any ‘unsuccessful’ rehoming attempts and potentially identifying dodgy rescue/rehoming organisations.

Important note:

Animal Care Australia draws your attention to the questions relating to penalties/offences and to the referenced ‘Appendix’ in the Discussion Paper. The penalties listed in the Appendix are for Penalty Notices and NOT the maximum penalties that can be issued by a Court. While the opening statement of the Appendix uses ‘Penalty Notice Offences’ the question within the Discussion Paper/Submission Form asks:

“Are the current enforcement provisions under the Act (including penalties for offences - see Appendix B of the discussion paper) appropriate? If not, what enforcement provisions should be changed?”

Firstly, we note Appendix B is not included in the Discussion Paper. Should there have been an Appendix that listed the maximum penalties able to be issued by a Court?

The current enforcement provisions under the Act actually include the maximum penalties that can be issued by a court and YET the attached Appendix DOES NOT include those penalties which will result in a disproportionate outcome of most respondents to this Paper stating they find the ‘maximum offences’ to be underwhelming and requiring to be adjusted.

For example, the NSW Coroner called for a review of a number of sections. We will use the first: *S12A (1) : Preventing dog from escaping*

(1) The owner of a dog must take all reasonable precautions to prevent the dog from escaping from the property on which it is being kept.

The Penalty Notice value to be issued is \$220 - as outlined in Appendix A.

However, if a Notice is not issued and the owner is sent to Court charged with the offence then:

Maximum penalty—

(a) 8 penalty units (a fine of \$880) except in the case of a dangerous, menacing, or restricted dog, or

(b) 50 penalty units (a fine of \$5500) in the case of a dangerous, menacing, or restricted dog.

Assuming the dog is not a dangerous, menacing, or restricted dog the comparison between \$220 and \$880 is substantial.

As such we find that question and the supplied Appendix to be misleading.

In closing:

Animal Care Australia welcomes any questions you may have as you continue to finalise this review.

We welcome the opportunity to meet with the department or the newly created Companion Animals Team, in order to ensure appropriate amendments to the Companion Animals Act are produced.

On behalf of the Animal Care Australia Committee,



Michael Donnelly
President
Animal Care Australia