

22nd August 2022
Hon Dugald Saunders MP
Minister for Agriculture

RE: Prevention of Cruelty to Animals Amendment (Animal Sentience) Bill 2022

Animal Care Australia (ACA) has serious concerns about the intentionally misleading wording of the proposed Prevention of Cruelty to Animals Amendment (Animal Sentience) Bill 2022, introduced by Ms Abigail Boyd MLC of the Greens Party.

The Prevention of Cruelty to Animals Amendment (Animal Sentience) Bill 2022 (the Bill) is here...

<https://www.parliament.nsw.gov.au/bill/files/3946/First%20Print.pdf>

The Bill proposes to amend the Prevention of Cruelty to Animals Act 1979 No 200 (the Act) found here...

<https://legislation.nsw.gov.au/view/html/inforce/current/act-1979-200>

ACA opposes the Bill in its entirety.

ACA notes the Bill has now had its Second Reading on 10th August 2022, and prior to the Third Reading, we wish to highlight the following:

- 1. Sentience is a term stolen by animal rights extremists. It is already scientifically recognised and acknowledged. Our laws are in place to prevent animal cruelty and improve animal welfare - nothing to do with animal rights. This is why ACA strongly opposes its use in legislation.**
- 2. NSW is in the process of finalising a new Animal Welfare Act. Extensive consultation has already taken place and with ample discussion regarding the use of sentience within the Act.**
- 3. Ms Boyd’s proposed Bill and it’s multitude of amendments were not included in the consultation process of the new Animal Welfare Act and this ‘sleight of hand’ attempt to force a change that opposes the recommendations made by the recent NSW Inquiry into the Animal Welfare Act should not be supported or encouraged.**
- 4. Cruelty offences are due to actions (or lack of) performed by people. Turning this on its head such that pain, including psychological pain, experienced by an animal in one's care is the offence is unwise both scientifically and legally.**

ACA highlights that the purpose of this bill is not about animal welfare, but is a stepping stone to advance the ethical position of a minority view of Animal Rights extremists to end all animal ownership, and remove animals from property laws. This was clearly stated by Ms Boyd in the Second Reading of the Bill where she states:

“Currently, instead of recognising the inherent value of animals, our laws consider them inanimate property that can feel only pain or its absence” and “One day it may well be that animals and the property status of animals may be further debated and explored”.

To end animals as property is also stated as a goal by the Greens: Animal Welfare Aim Section G. Legislation. no 84:

‘Replace the status of non- human animal as ‘property’ within current legislation to one of ‘sentient beings’ with recognisable legal rights’ (Source: www.greens.org.au/nsw/policies/animal-welfare)

To be clear:

ANIMAL RIGHTS ARE NOT THE SAME AS ANIMAL WELFARE.

Animal Rights has NO PLACE in Animal Welfare Legislation.

The ACA Committee strongly disagrees that POCTAA treats animals as inanimate property. POCTAA itself would not exist if this was truly the case, as Australia first introduced prevention of cruelty laws in 1872.

A testament that the Australian community and government already recognises animal welfare is important. There is no need for cruelty laws if animals don't feel pain or distress. ACA feels sentience is a scientific term, not a legal one.

Sentience is a term recently hijacked by Animal Rights Extremist Groups - coincidentally, all named and thanked by Ms Boyd in her address - who demand that this particular word must be included in law – it is important to these groups, because they see it opening a door that later cannot be closed again.

There is no doubt that animals feel pain and distress, the issue with addressing these experiences in law is that the animal cannot verbally express what they are feeling or why, and so the claim can only be made by an observer. Often an observer who is not independent of the animal's experience.

We see many instances of witnesses and online keyboard warriors misinterpreting another human's intentions or feelings. When that witness or online keyboard warrior is seeing an animal react or respond to a situation, we see even poorer comprehension of species specific behaviour, wrapped in a few layers of anthropomorphising, and topped with animal liberationist ideals and propaganda.

This does nothing to improve animal welfare or prevent cruelty, as is the intent of POCTAA. Sentience is purely the advancement of Animal Rights into Animal Welfare Legislation where it has no place.

- Who will be determining what an animal is experiencing and why?
- How can we trust that they are accurately interpreting the situation?
- How can Authorised Enforcement Officers – RSPCA, AWL or Police - arriving hours or days after a reported incident, and with minimal to no training, and no expertise in species specific behaviours, accurately determine the animals actual experience and whether it has affected them after the fact?
- How can this be realistically determined by the courts and judges with even less expertise in animal behaviour? This is already a real problem faced by the courts under our current legislation, and this Bill does nothing to improve that situation.

It is important that definitions of cruelty are clearly defined in physical signs and evidence – in the animal itself and its surroundings. Laws must be clear and unambiguous to ensure that POCTAA can be enforced appropriately and fairly, without innuendo and political agendas and defamation. Animal neglect and emotional distress are situations where education is THE most appropriate approach, rather than prosecution. Many people simply do not know better, but love their animals, and people should be assisted to do better, which is how welfare is improved across the community and not by seizing animals that are not at real risk of harm.

The Animal Welfare League (AWL) have been hugely successful at improving animal welfare and preventing cruelty through education, instead of excessive prosecutions.

Deliberate cruelty to harm an animal must be clearly defined and we agree with this level of cruelty being addressed through prosecutions, as it currently is. But this leads us to other concerning aspects of this Bill.

3(1)(a) - *"the sentience of animals and their ability to subjectively feel and perceive..."*

and 4 - definition of cruelty:

"cruelty, to an animal, includes an act or omission that causes or is likely to cause the animal to feel or experience pain that is unreasonable or unnecessary."

Words such as "subjectively" and "is likely to" are inappropriate; impossible to determine with any precision and therefore inappropriate in terms of compliance and enforcement.

Section 3 (1)(d) require animal welfare assessment models and best practice to be taken into account by the court, officers and the Secretary.

Currently our laws set minimum standards of care to be met to ensure an animals welfare needs are met, and those falling below these minimum standards in their animals care or handling can be reported and visited by enforcement agencies, who can prosecute offenders for failing to meet those minimum standards. Point (d) of this bill, introduces BEST PRACTICE as the new lowest standard for courts to consider.

Best Practice is NOT outlined or described in POCTAA Regulations or Codes of Practice. What is Best Practice is industry determined (each animal industry - such as companion animal breeding, horse racing, or agriculture – varies by industry associations). It is also constantly adapting to industry and technological changes and naturally improves over time. The inclusion of ‘BEST PRACTICE’ in this Bill makes unknown, unwritten, hypothetical ‘Best Practice’ the new Minimum Standard.

An additional concern is: as this change is being introduced into POCTAA – this means all cruelty cases before the courts can then be decided on whether BEST PRACTICE was being followed, not whether minimum welfare standards are being met.

This is beyond outrageous, and will make every owner of animals open to prosecution if they leave their animal unattended for a few hours, as the kitty litter box is soiled and not cleaned immediately (best practice), as the dog is not trained to the same level as a professional dog trainer (best practice) as a horse is injured on a nail in a fence that shouldn’t have been exposed (best practice). These are concerns that should not be prosecuted as less than best practice. Our courts have real animal welfare concerns to address without creating more meaningless prosecutions because someone has temporarily not met Best Practice.

This has the potential to open a pandora’s box by setting a new precedent for all legislative Regulations to be revised with hypothetical Best Practice as the new minimum, striking out all minimum standards currently set. Can you honestly say that every action you take in your work, during recreation, or caring for your family is BEST PRACTICE at every point in time?

Setting an unrealistic standard to meet is a very quick way to make all animal keeping impossible for anyone without unlimited resources and bank accounts, and a short cut to removing all domesticated animals from society very quickly.

This is the intention of Animal Rights Extremists. This is not what the public expect to see.

Animal Rights has NO PLACE in Animal Welfare Legislation.

If you think this sounds extreme and ridiculous, you are correct. This is the reason why this Bill, and any imitation of it should not be supported. Animal Rights has NO PLACE in Animal Welfare Legislation.

Please ask all of your Party members to recognise the actual intent and consequences of this Bill, and not support it.

Please do not support the progression of this Amendment Bill.

Kind regards,



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CC: The Hon Mick Veitch – Shadow Minister
The Hon Mark Banasiak – Shooters Fishers & Farmers