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Legislative Council Hansard – 24 October 2024 – Proof



PREVENTION OF CRUELTY TO ANIMALS AMENDMENT (PUPPY FARMING) BILL 2024

First Reading

Bill introduced, read a first time and ordered to be published on motion by the Hon. Tara Moriarty.

The Hon. TARA MORIARTY: According to standing order, I table a statement of public interest.

Statement of public interest tabled.

Second Reading Speech

The Hon. TARA MORIARTY (Minister for Agriculture, Minister for Regional New South Wales, and Minister for Western New South Wales) (16:03): I move:

That this bill be now read a second time.

I introduce a bill to amend the Prevention of Cruelty to Animals Act 1979, known as POCTAA, to address puppy farming in New South Wales. As members know, animal welfare is an issue that resonates deeply with the people of New South Wales. The bill seeks to address community concerns by increasing transparency and oversight, strengthening breeding regulations and ultimately protecting the wellbeing of dogs across the State. The New South Wales Government takes animal welfare extremely seriously. The introduction of the bill demonstrates the Government's commitment to modernising animal welfare and delivering its election commitment to ban puppy farming.

Puppy farming is characterised by intensive breeding for commercial purposes with little regard for the dog's physical or mental needs. Those practices have no place in New South Wales. That is why we are implementing a robust framework of regulations and enforcement mechanisms to distinguish ethical breeders from puppy farms. National data indicates that roughly seven in every 10 households have a companion animal, with dogs by far being the most prevalent. They are beloved members of our families and provide essential services within our community. However, the dark reality for some dogs is that they are bred in premises focused primarily on profit, often at the expense of their health and wellbeing.

It is clear that puppy farming is an issue of substantial concern to many in the community and industry. The 2022 New South Wales parliamentary inquiry into puppy farming received more than 900 submissions and over 6,000 responses to an online questionnaire. Of those respondents, 86 per cent wanted puppy farming banned. That reflects the growing public demand for robust ethical breeding practices. The bill has been developed through extensive consultation with the community, industry and other peak bodies, as well as several parliamentary inquiries, to ensure that we reinforce the regulatory framework with practical, clear and simple provisions.

Our approach is direct and builds on the existing regulatory framework within the Prevention of Cruelty to Animals Act 1979. Strong legislative controls proportionate to managing animal welfare risks are critical for success. The bill balances regulatory burdens on breeders and stakeholders by requiring compliance through sensible and realistic animal welfare standards. All breeders in New South Wales, regardless of the scale of their operations, must comply with the Prevention of Cruelty to Animals Act 1979. They must take reasonable care, control and supervision of animals, such as taking reasonable steps to alleviate pain and provide the animal veterinary treatment where appropriate.

Those operating a business that breeds dogs and cats for fee and reward must also comply with the *Animal Welfare Code of Practice: Breeding Dogs and Cats*, or the breeding code, that outlines requirements for animal housing, management and health. However, as I have discovered while being the Minister responsible for delivery, breeding animals is in some ways the wild west of the sector in New South Wales. Currently, there are no specific restrictions on the number of fertile female adult dogs that a breeder may have, the number of litters a female may produce in her lifetime or the staffing ratios required on premises to ensure proper care.

There is also no mandatory registration scheme for dog breeders, meaning there is insufficient data on the size and scale of dog breeding in New South Wales. Those gaps in the regulatory framework limit enforcement activities and reduce the Government's ability to promote and ensure responsible breeding practices and adherence to relevant codes of practice and standards by all those involved in breeding. The provisions established in the bill are a sound starting point. They set minimum standards for all, improving breeding practices across New South Wales, providing transparency and greater accountability. The provisions were directly informed by previous consultation and recent targeted stakeholder engagement to ensure that they are practical, effective and fit for purpose.

The Government acknowledges that the legislative landscape, industry practices and animal welfare science are ever evolving. To maintain the bill's effectiveness over time, a review process will be conducted as soon as possible after six years from the date of assent, being approximately five years from the date of commencement of the substantive provisions of the bill on 1 December 2025. The review will assess whether the policy objectives of the bill, and specifically part 2AA, remain valid and that the provisions remain appropriate for securing those objectives.

The bill amends the Prevention of Cruelty to Animals Act 1979 in three key areas. First, it introduces provisions to better track and trace unethical breeders and identify the source of puppies. That will enhance the ability of potential buyers to identify and verify breeders, helping to eliminate harmful practices. Second, the bill sets clear animal welfare requirements for dog breeders, including a maximum cap of 20 female adult dogs per premise, being female dogs that are over the age of six months and that have not been rendered permanently infertile. It also establishes lifetime litter limits and minimum staff-to-dog ratios. To ensure there are no adverse animal welfare outcomes in implementing these new provisions, special circumstances will apply to support certain breeders to reduce their number of female adult dogs via an exemption over 10 years. Finally, the bill mandates that all dog breeders must comply with the breeding code from 1 December 2029 onwards. This will create a more robust regulatory framework that promotes improved animal welfare outcomes for dogs and their breeders, not just those breeding for fee or reward. These provisions deliver on the Government's promise to modernise animal welfare in New South Wales to benefit the community, the sector and the State's many dogs.

I now turn my attention to the specific provisions of the bill. The bill will introduce mandatory breeder identification. Anyone breeding dogs—whether regular breeders, occasional breeders or those with accidental litters—will be required to obtain a breeder identification number, known as a BIN. For organisations who have custody of seized or surrendered dogs, and where one of those dogs becomes pregnant accidentally, their rehoming organisation number, known as a RON, will be accepted in lieu of a BIN in order to avoid unnecessary red tape. Mandating the use of these identification numbers creates a near-universal traceability scheme within New South Wales that will enable the ability to trace individual dogs back to their original breeders regardless of their current ownership. This transparency will help eliminate unethical breeders and provide consumers with confidence that their new family member has been raised in a humane and caring environment by a registered breeder.

The new mandatory provision leverages existing infrastructure of the NSW Pet Registry. There are over 19,000 companion animal breeders who have voluntarily registered for a BIN, and over 100 organisations with a RON. Whilst the application for a BIN will continue to remain free, changes will be made to the existing processes to support the new identification requirements, including seeking additional information such as the total number of dogs and dog premises the applicant is responsible for. These processes are designed to be as straightforward as possible and will provide transparency and oversight to strengthen compliance and effectiveness. Individual breeders or organisations currently holding a voluntary BIN will be required to reapply and update their details by 1 December 2025 in order to comply with the bill. Otherwise, their unique identification number will be cancelled. This initiative will commence on 1 December 2025. The bill acknowledges the importance of genuine working dogs in the community. Farmers breeding working dogs for the purposes of working on the land on which they were bred will be exempt from obtaining a BIN whilst they remain on that land.

The bill will mandate greater identification for the sale or transfer of dogs, including when they are transferred or given away. The bill will require any advertisement of dogs born after 1 December 2025 to include both the microchip number and the breeder's BIN or, in the case of a rehoming organisation where the identity of the breeder is not known, a RON. Previously, only one of these numbers was required to be displayed. To account for circumstances where an advertisement is not made, this information must be provided to the purchaser before or at the time of sale. Dogs must be identified in accordance with the Companion Animals Act 1998 or, for retired racing greyhounds, the greyhound racing rules under the Greyhound Racing Act 2017.

The bill recognises there are circumstances where identification, through the insertion of a microchip, may cause harm to an animal. For dogs being sold under eight weeks of age, the microchip number of the female parent dog is to be included in sale documentation to avoid any adverse welfare outcomes. These requirements will give buyers greater information to make wise choices. Buyers will be able to search the NSW Pet Registry online to validate the authenticity of information being supplied. They will be able to check that the microchip number reflects the details of the dog being sold and if the breeder identification number is active or has been suspended or cancelled. These actions will support the greater monitoring of dogs being sold or transferred and reinforce ethical practices. This provision will commence on 1 December 2025.

The bill will also mandate that any person who manages or controls dog premises must not keep more than the maximum number of female adult dogs. New South Wales is adopting the toughest stance nationally with this provision, setting a maximum cap of 20 female dogs over the age of six months at any premises. This is the central element that delivers on the Government's election commitment. To continue essential services and specific animal welfare functions, exemptions will apply to New South Wales Government sector agencies such as police and corrections, those breeding assistance dogs as defined under the Companion Animals Act 1998 and approved charitable organisations carrying out compliance and enforcement functions under POCTAA, or those issued with a RON for the purpose of rehoming surrendered or seized animals. Premises used to temporarily keep or care for dogs, such as at dog shows, like the Royal Easter Show, and dogs rendered permanently infertile will also be exempted. This is a significant step forward for New South Wales.

The Government recognises the need to allow certain breeders to scale down their business operations in a controlled manner and will introduce transitional provisions. These provisions will avoid situations where potentially healthy animals, unable to be rehomed prior to commencement, are euthanised. Firstly, while the maximum number of female adult dogs will commence on assent, the bill will provide an exemption until 1 December 2025 for breeders with more than 20 female adult dogs, so long as they do not keep any additional female adult dogs above the number that were kept on their dog premises immediately before the assent to the bill. Secondly, the bill will provide a limited grandfathering exemption to the maximum number of female adult dogs to allow certain persons to keep more than 20 female adult dogs on dog premises until 1 December 2035. This exemption allows a person with existing dogs or an existing development consent for dog premises to continue to operate for a period of time.

This limited grandfathering exemption will commence on 1 December 2025, and it will be conditional. Exemption holders and any staff member must not have a conviction for an animal cruelty offence. The number of female adult dogs on the premises cannot exceed the number of female adult dogs on the premises as at 24 October 2024 permitted under development consent or nominated by the departmental chief executive. No more than 50 female adult dogs can be kept on any premises after 1 December 2026. Exemption holders and any staff member must comply with the breeding code, and exemption holders must provide an annual breeding report. Finally, in the event of an exemption holder's death or circumstances where they become mentally incapacitated and unable to comply with the required conditions, the legislation will enable circumstances for another individual to apply for a continuation of the limited grandfathering exemption.

The bill will also set out lifetime breeding limits for female dogs by specifying a cap on the maximum number of pregnancies and types of births a female dog may have in the dog's lifetime. The maximum number of deliveries for a female dog will be set at five different births. Given the increased animal welfare risks of caesarean deliveries, no female dog will be able to have any further births once the dog has had a third caesarean delivery. This provision is not just about numbers; it is about the welfare and dignity of the animals. Female dogs should not be treated as breeding machines. They deserve to live healthy, fulfilling lives, and this provision ensures that they are not subjected to excessive reproductive demands. Breeders will be required, within 14 days after the birth, to keep appropriate records such as the date of birth and whether the birth was by caesarean or another method of delivery. This provision will commence on 1 December 2025.

The bill will also establish a minimum number of staff members for dog premises. A ratio of at least one staff member for every 20 dogs over the age of 12 weeks will be mandated, to provide proper and sufficient care, such as food and water on the premises. In recognition of the role played by the female parent, a litter of puppies that are 12 weeks old or younger will be counted as one dog. In a situation where dog premises used for breeding have more than 20 dogs in total, the staffing requirement is to be rounded up to the nearest whole number. For example, a dog premises that has 18 dogs over 12 weeks of age plus four litters of dogs under 12 weeks of age would result in a staffing ratio of one to one, which is then required to be rounded up to the nearest whole number, being two staff members required on those dog premises. Staff members can be working full-time or part-time, either employed or as volunteers. They can be the owner or manager of the dog premises or a family member.

Recognising the human health benefits, assistance animals within the meaning of the Companion Animals Act 1998 will be exempt. This provision is essential for addressing key welfare concerns associated with puppy farming, where dogs are often kept in overcrowded and understaffed conditions. It reflects the reality that one person could not possibly meet the daily welfare requirements of more than 20 dogs on their own. This provision will also commence on 1 December 2025.

The bill will also require any person allocated a unique breeder identification number, such as the BIN or RON, to comply with the code of practice for breeding dogs and cats. Any person owning, managing or controlling dog premises must take all reasonable steps to ensure all staff members comply with the breeding code. This mandate reflects a significant commitment to the demand of the community and the industry for a more robust regulatory framework that promotes enhanced animal welfare outcomes for all breeders, regardless of whether they operate for a fee or reward. By establishing these standards, the legislation aims to ensure that every dog is bred in an environment that prioritises their health and wellbeing.

The bill recognises there are several existing statutory arrangements already in place. To avoid duplication, the bill will not apply to racing greyhounds where they are owned and kept in relation to greyhound racing or by a registered greyhound racing industry participant. Sufficient controls for breeding will continue to be achieved through the Greyhound Welfare and Integrity Commission under the Greyhound Racing Act 2017. It also will not apply to animal research activities where they have been expressly approved and fall under an animal research authority that is conducted in accordance with the directions of an animal care and ethics committee under the Animal Research Act 1985.

The Government will implement substantial penalty offences for individuals or organisations that breach the provisions of the bill. These penalties are designed to deter illegal and unethical breeding practices by providing strong incentives to comply. Maximum penalties will range from eight penalty units, which is \$880, for individuals breaching the requirement to notify certain changes or events, to 1,000 penalty units, which is \$110,000, two years imprisonment or both for an individual—and 5,000 penalty units, which is \$550,000, for a corporation—for breaching the cap on the maximum number of female adult dogs. Penalty notice offences will range from \$500 for an individual and \$2,500 for a corporation, for failing to keep a record of a litter birth, to \$1,000 for individuals and \$5,000 for a corporation for breaching information requirements when dogs are for sale.

The bill will also introduce consequential amendments to the Companion Animals Act 1998 and supporting regulation to achieve the policy intention of the Government's bill. These changes include but are not limited to new requirements for breeder identification registration, including prescribing the allocation, refusal, suspension or cancellation of breeder identification numbers; notification arrangements for registered breeders where their name or address changes or if they have been convicted of an animal cruelty offence or are subject to a disqualification order; new requirements for breeder or rehoming organisation information; new requirements to apply the exemption to the maximum number of female adult dogs; consequential penalty offence provisions; and consequential transition provisions to cancel existing BINs related to dog breeders on 1 December 2025, unless cancelled earlier.

The Government wants to encourage the people of New South Wales to buy from reputable dog breeders or adopt from our pounds and shelters that are currently bursting at the seams. The ultimate goal of the Government's bill is to eliminate unethical breeding operations and puppy farms operating in the shadows. These provisions will provide the people of New South Wales with the guardrails and knowledge to own dogs that have been raised and bred within the appropriate animal welfare standards. The Prevention of Cruelty to Animals Amendment (Puppy Farming) Bill 2024 is a testament to our commitment to animal welfare and ethical breeding practices. It addresses the critical gaps in our current regulatory framework and aligns with the expectations of the community. These provisions are fair, simple and clear, and they create the necessary guardrails for breeders, buyers, owners, for the welfare of our beloved dogs.

By passing this bill, we take a significant step towards tackling puppy farming in New South Wales, ensuring that dogs are bred in humane conditions and safeguarding their welfare for the future. This bill represents this Government's strong resolve to improve animal welfare, and this bill delivers on an election commitment. People in New South Wales have created acceptable breeding operations. For this reason, it is time to ban puppy farming. There are very strong views across New South Wales about this. This is an issue that has been debated for way too long in the State. If the bill passes, with the support of this Parliament, it will be a significant change for consumers who are making decisions about the pets they purchase and will mean significantly better outcomes for dogs and animal welfare in New South Wales. I commend the bill to the House.

Debate adjourned.