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The Australian Brumby Alliance Submission to the NSW Parliamentary inquiry

To the Legislative Council Select Committee on Animal Cruelty Laws in New South Wales, established on 8 August 2019 to inquire and report on the effectiveness of arrangements for the administration and enforcement of the laws of New South Wales for the protection of animals from cruelty. - Submitted via:

<https://www.parliament.nsw.gov.au/committees/listofcommittees/Pages/committee-details.aspx?pk=263#tab-termsofreference>

Thank you for the opportunity to provide this submission to the NSW Parliamentary Inquiry Legislative Council Select Committee on Animal Cruelty Laws in New South Wales regarding its report on the effectiveness of arrangements for the administration and enforcement of the laws of New South Wales for the protection of animals from cruelty.

The Australian Brumby Alliance (ABA) Inc. was formed in April 2008. Its mission is to act as a National Body for the Recognition, Management, Preservation and Welfare of Australian Wild Horses (Brumbies). ABA Member groups project a strong advocacy focus and have developed a solid understanding of the skills and complexities required to collect Brumbies trapped by park removal programs, then gentle and rehome them.

The ABA has significant concerns regarding the ability of Animal Cruelty Laws in New South Wales to provide effective arrangements for the administration and enforcement of the laws of New South Wales for the protection of animals from cruelty.

Prevention of Cruelty to Animals Act (1979) found on link https://www.austlii.edu.au/cgi-bin/viewdb/au/legis/nsw/consol_act/poacta1979360/ states that “*Under the Prevention of Cruelty to Animals Act (1979), RSPCA inspectors have the power to remove animals from owners who are cruel, neglectful or indifferent to their animals’ suffering*”, and that (RSPCA) “*Inspectors investigate up to 15,000 complaints every year. Many of these complaints are dealt with on the spot by educating owners of their responsibility. The cruelty cases are referred to the courts for prosecution*”.

The 1979 Act also requires that *“RSPCA inspectors investigate complaints against all kinds of animals in all kinds of situations. The most common complaints are failure to provide adequate and proper food, shelter or veterinary treatment. Inspectors also investigate:*

- *abandoned animals*
- *animals not fed proper and sufficient food*
- *animals not provided with veterinary treatment*
- *acts of intentional cruelty and harm*
- *continually tethered animals (longer than 24 hours at a time)*
- *drought-stricken livestock*
- *hoarders – people with more animals than they can look after*
- *pet shops*
- *animal breeding facilities*
- *sale yards*

The requirement and responsibilities laid upon RSPCA NSW, and other states is impossibly high, especially when considering government funding for NSW RSPCA is around 2% for general shelter care and around 6% towards RSPCA Inspector work.

Inadequate funding support to enforce the 1979 Act

RSPCA are stretched to provide physical care for sick animals, and lack of sufficient funding means not all animals in need can be rescued or treated. This surely presents RSPCA NSW with a conflict of interest. How much should RSPCA NSW divert from their total donated fund base for treating sick and abandoned animals in their care – over to investigating and prosecuting offences that they are expected to cover under the Animal Cruelty Act.

The government funds around 6% of the total RSPCA NSW budget, which roughly equates to 1-2 Inspectors. There is no additional government funding to cover Inspector / legal court case preparation, time in court or critically, to cover case costs lost during the process.

If the RSPCA win, they still only recover around 50%-70% of the costs they have incurred, and if they lose, the charity is required to pay out 50%-70% towards the other side's costs, on top of their own costs. Just one legal case risks draining their budget by \$100,000 plus.

The result we have seen is that RSPCA are extremely hesitant to run a case unless they feel they have absolute certainty to win. This extreme caution has let cruelty cases that we have seen simple get a warning. The reluctance to enforce the Act has allowed so many people to openly flout the 1979 Act because avoiding their responsibilities is so very easy.

The seriously low government financial support that is essential if the Prevention of Cruelty to Animals Act (1979) is to be truly enforced, has become a major indictment on Australia's animal welfare reputation, and leaves the RSPCA NSW in reality, just a toothless tiger.

The ABA notes that the RSPCA's August 2015 submission to the Senate Rural and Regional Affairs and Transport References Committee recommended that *“A national approach is needed to promote consistency and to develop a proactive strategy that addresses animal welfare issues (to) reduce unnecessary duplication, and most importantly, contribute to the sustained improvement of animal welfare standards across the country”*.

The ABA also urges the Legislative Council Select Committee on Animal Cruelty Laws (NSW) to include within the Act the welfare of wild animals, introduced or native.

Many animals labelled feral by authorities are regularly killed by methods that would not meet the requirements of the animal welfare 1979 Act.

Many animals are recognised now as sentient beings, the ABA urges the inquiry to include management of Australia's wild horses (Brumbies) in its inquiry report on the effectiveness of arrangements for the administration and enforcement of the laws of New South Wales for the protection of animals from cruelty.

ABA recommendations for the Inquiry to consider

- Create a new Government body to ensure the Prevention of Cruelty to Animals Act (1979) is appropriately policed and acts of cruelty identified and prosecuted.
- Adequately fund the new government body so that it can attract sufficiently skilled staff, in sufficient numbers, to investigate and prosecute cases as needed.
- The new government body could facilitate regular interaction with the staff skills and reporting processes that the RSPCA currently deal with, and
- Through a regular exchange of animal welfare investigatory skills between the two bodies ensure a smooth transition of skills and operational policies to the new body.

Our recommendations aim to avoid any conflict of interest RSPCA may have when allocating their resources across care and enforcement duties and to ensure sufficient and transparent funds are allocated to a government body dedicated to ensuring the 1979 Act is adhered to.

Surely the government has a duty of care responsibility to ensure the 1979 Act is properly funded, with correctly skilled officers, and that the penalties match today's understanding of animal welfare norms.

Please contact the ABA via 0400-558-772 for any queries or clarification if needed.

Yours sincerely



President,
Australian Brumby Alliance Inc.