



Submission



Draft NSW Animal Welfare Act

**Prepared by the Coalition for the Protection of Greyhounds
February 2022**

End greyhound suffering

About the Coalition for the Protection of Greyhounds

The Coalition for the Protection of Greyhounds (CPG) is a not-for-profit committed to ending greyhound suffering by exposing the cruelty and corruption of the greyhound racing industry and lobbying for law reform. We have members across Australia, including NSW.

We advocate for law reform that:

Implements whole-of-life tracking. Greyhounds in the racing industry are vulnerable to unnecessary euthanasia particularly those puppies who do not race and dogs who are rehomed by industry participants. A system must be implemented to monitor the welfare of each greyhound for their entire life.

Funds rescues and sanctuaries. Greyhound breeding nationally is six times the racing industry's capacity to rehome. To avoid healthy and rehomingable greyhounds being put to death, state governments must fund private greyhound rehoming organisations and privately operated sanctuaries.

Increases penalties. Penalties are not proving a deterrent given the financial rewards offered by the industry. The industry must also strengthen associated regulation and enforcement.

Reduces breeding. According to the latest GRNSW Annual Report, around 25 per cent of greyhounds bred in FY20/21 were surplus to requirements. The greyhound racing industry must stop offering financial incentives for breeding and industry regulators must be empowered to set and enforce breeding numbers

Makes tracks safer. Approximately 850 greyhounds are injured each month and over 200 are killed each year on Australian tracks. To improve track safety, the greyhound racing industry must develop purpose-built straight tracks; reduce the number of starters from eight greyhounds to six, and install an extended lure at all tracks.

Introduction

CPG welcomes the opportunity to make a submission to the Standing Committee on State Development. CPG has a long history of providing policy submissions on animal welfare matters specific to racing greyhounds across Australia.

This inquiry provides an important opportunity to evaluate the animal welfare policy framework in NSW, and provide recommendations that could address the enforcement gap that is undermining the effectiveness of the current regime.

We have ongoing concerns about the welfare of greyhounds in the racing industry in NSW. Our key concerns have been raised in previous submissions and reports, which we include for the benefit of the Committee.

It is CPG's view that this Bill is a missed opportunity to modernise animal welfare legislation in NSW. The Bill retains many of the provisions in the Prevention of Cruelty to Animals Act 1979 (NSW) without introducing protections that ensure all animals are entitled to an appropriate quality of life.

We make six recommendations for strengthening the draft Animal Welfare Bill 2022 to ensure that it adequately protects the wellbeing of animals, specifically, racing greyhounds that continue to be subjected to inhumane and unethical conditions. Our submission is structured as follows:

1. Summary of Key Recommendations

2. Background

- 2.1 Special Commission into the Greyhound Racing Industry
- 2.2 Industry reform has not addressed the high levels of wastage

3. Recommendations

- 3.1 Amend the objects of the Act to recognise animal sentience
- 3.2 Prohibit the euthanasia of dogs with treatable injuries that have resulted from a race or exhibition event
- 3.3 Provide standing provisions that allow third parties to bring legal proceedings in the public interest
- 3.4 Protect people who rescue animals held in vehicles during hot weather from being held criminally or civilly liable
- 3.5 Include surgical artificial insemination (surgical AI) in the list of prohibited procedures
- 3.6 Retain live baiting as a category 1 offence

1. Summary of key recommendations

Recommendation 1: Recognise that animals are sentient

The proposed Bill needs to recognise that all animals are sentient creatures and that people have a moral duty to protect their welfare. We submit that the objects of the Bill should be amended to more closely reflect section 4A of the *Animal Welfare Act 1992* (ACT).

The main objects of that Act are to recognise that:

- (a) animals are sentient beings that are able to subjectively feel and perceive the world around them
- (b) animals have intrinsic value and deserve to be treated with compassion and have a quality of life that reflect their intrinsic value; and
- (c) people have a duty to care for the physical and mental welfare of animals.

Recommendation 2: Prohibit euthanasia of dogs with treatable injuries

The future legislative framework governing animal welfare in NSW must prohibit the euthanasia of dogs that have treatable injuries resulting from a race or exhibition event. We submit that this can be achieved by either:

- (a) Amending section 22 to classify the euthanasia of a dog with a treatable injury incurred from a race, trial or exhibition as a 'prohibited procedure'; or
- (b) Amending Schedule 1 to classify the euthanasia of a dog that has suffered an injury incurred from a race or exhibition as a 'restricted procedure' that can only be performed by a veterinary practitioner for the purpose of providing relief from a terminal disease, illness or injury.

Recommendation 3: Allow third parties to bring public interest legal proceedings

As part of the animal welfare reforms, legislation should provide for open standing so third parties are enabled to bring proceedings in the public interest. We submit that a provision should be inserted that is similar to s 9.45 of the *Environmental Planning and Assessment Act 1979* (NSW) which provides that:

"Any person may bring proceedings in the Court for an order to remedy or restrain a breach of this Act, whether or not any right of that person has been or may be infringed by or as a consequence of that breach."

Recommendation 4: Protect people who rescue animals held in vehicles during hot weather from being held criminally or civilly liable

The draft Animal Welfare Bill should be amended to lower the temperature threshold for when dogs can no longer be kept in a vehicle during hot weather. People that attempt to rescue an animal that is locked in a vehicle and at risk of suffering harm should not be held liable for any damage that they may cause. We submit that this can be achieved by:

- (a) Amending section 37(6) to define hot weather as an ambient temperature of 24 degrees or more; and
- (b) Inserting a provision similar to section 109A of the *Animal Welfare Act 1992* (ACT) which provides that a person does not incur criminal or civil liability if the person forcibly enters the motor vehicle, or assists another person to forcibly enter the motor vehicle to release an animal that appears to be at risk of serious injury or death.

Recommendation 5: Retain surgical artificial insemination (surgical AI) as a prohibited procedure

Given comments attributed to the NSW Minister for Agriculture in a greyhound industry publication, we are concerned that surgical AI on a dog will be removed from the list of prohibited procedures in section 22 of the draft NSW *Animal Welfare Bill 2022*. This means that all NSW dogs would lose legal protection from this painful and unethical practice.

Evidence provided in our submission shows that the non-surgical alternative, trans-cervical AI is not only an equivalent reproductive technique, but a superior one, and that this has led to a number of countries banning surgical AI on ethical grounds.

CPG therefore strongly recommends that surgical AI be included in the list of prohibited practices.

Recommendation 6: Retain live baiting as a category 1 offence

In 2015 the ABC aired a Four Corners program that showed live-baiting was rife in the Australian greyhound racing industry, including in NSW, despite the practice being illegal. The reaction by the Australian community, horrified that such a primitive and barbaric practice was accepted by those involved in greyhound training, makes it absolutely essential that anyone involved in live baiting be subject to the heaviest penalties available under the law.

CPG therefore agrees that live baiting must attract the heaviest penalties under the legislation to ensure a deterrent effect.

2. Background

2.1 Special Commission into the Greyhound Racing Industry

In 2016, the Special Commission of Inquiry into the Greyhound Racing Industry in New South Wales (the Commission) sparked public outcry when it revealed the high rates of “wastage” in the greyhound racing industry.¹ It found that the life expectancy of a racing greyhound was 4.5 years, roughly one-third of the average life expectancy for the breed.² Between 2004 and 2015, it was estimated that 80,721 greyhounds in NSW had been destroyed.³ This was supported by the discovery of a series of mass graves with one containing the remains of up to 100 greyhounds.⁴

2.2 Industry reform has not addressed the high levels of wastage

CPG firmly believes that the cycle of breeding, using and culling greyhounds in the racing industry has not been addressed. There was a major decrease in breeding between FY14/15 and FY16/17 due to public pressure over the live baiting scandal and inquiries into the “systemic animal cruelty” associated with the greyhound racing industry. However, breeding is now on the increase with 4,662 greyhounds bred in FY20/21, a 52 per cent increase since 2016/17.⁵

The greyhound racing industry in its current form does not have the social licence to operate. It does not meet community expectations as being an ethical and humane industry. The Commission highlighted that animal welfare must be given the greatest weight in making this value judgement.⁶ According to official records, 213 greyhounds were

¹ Michael McHugh AC QC, *Special Commission of Inquiry into the Greyhound Racing Industry in New South Wales* (2016) <https://apo.org.au/node/65365>

² Ibid 11.1.

³ Ibid 11.15.

⁴ ‘100 greyhounds killed and dumped in mass grave in Hunter Valley’ (2016) Daily Telegraph <https://dailytelegraph.com.au/news/nsw/100-greyhounds-killed-and-dumped-in-mass-grave-in-hunter-valley/news-story/b1c895a441f8f335b1f8595e642121ff>; Brooke Wylie and Jamie McKinnell ‘Mass greyhound grave found at Sydney property, a dozen emaciated dogs seized’ (2018) ABC

⁵ Coalition for the Protection of Greyhounds, *A GAPing Hole in the Industry* (2021) White Paper <https://greyhoundcoalition.com/a-gaping-hole-in-the-industry/>

⁶ Michael McHugh AC QC, *Special Commission of Inquiry into the Greyhound Racing Industry in New South Wales Report Volume 1* <https://apo.org.au/node/65365> 1.98.

killed on racing tracks in 2021.⁷ Racing industry annual reports for 2020-21 showed that almost 1,700 greyhounds died within the industry from all causes.⁸

This number does not account for the greyhounds that are not reported to authorities. The lack of industry data that follows greyhounds throughout their lifetime means there are thousands of greyhounds that remain unaccounted for. Greyhounds are being killed off the track because they lack the instinct to chase, they are underperforming or they have been injured.

CPG submits that **the industry has failed to reduce the deaths of healthy greyhounds to levels the community could tolerate.**

⁷ Coalition for the Protection of Greyhounds, *Lethal tracks 2021 – track-related deaths and injuries* (2021) 4.

⁸ Ibid 3.

3. Recommendations

3.1 Amend the objects of the Act to recognise animal sentience

Science has recognised that animals are sentient creatures that are capable of feeling physical pain, physiological stress and emotions.⁹ Welfare concerns both the physical and mental well-being of the animal. Any attempt to evaluate welfare, therefore, must recognise that animals experience the world in a similar way to humans. A New Animal Welfare Act for Victoria Directions Paper found that:

“Recognising animal sentience in legislation reflects that caring for an animal is different to caring for your vehicle, house or other inanimate property. It provides clarity that policy development and regulatory decisions should be based on preserving animal welfare (rather than just responding to animal cruelty).”¹⁰

The failure to acknowledge animal sentience undermines the purpose of the Bill, which is to “promote the welfare of animals”. The welfare of animals cannot be protected if their intrinsic value as sentient beings is not taken into consideration.

Recommendation 1: Recognise that animals are sentient

The proposed Bill needs to recognise that all animals are sentient creatures and that people have a moral duty to protect their welfare. We submit that the objects of the Bill should be amended to more closely reflect section 4A of the *Animal Welfare Act 1992* (ACT).

The main objects of that Act are to recognise that:

- (a) animals are sentient beings that are able to subjectively feel and perceive the world around them
- (b) animals have intrinsic value and deserve to be treated with compassion and have a quality of life that reflect their intrinsic value; and
- (c) people have a duty to care for the physical and mental welfare of animals.

⁹ Duncan, Ian J.H. ‘The changing concept of animal sentience’ (2006) *Applied Animal Behaviour Science* 100(1) <https://www.sciencedirect.com/science/article/pii/S0168159106001110>

¹⁰ Victorian State Government, *A New Animal Welfare Act for Victoria Directions Paper* (2020) <https://engage.vic.gov.au/new-animal-welfare-act-victoria>

3.2 Prohibit the euthanasia of dogs with treatable injuries

The level of wastage in the industry can be reduced by preventing dogs that have suffered treatable injuries during racing, trials and exhibition events from being euthanised. The industry must be responsible for rehoming the greyhounds that they breed.

3.2.1 An unacceptable number of greyhounds are killed each year after sustaining treatable injuries during races, trials and exhibition events

Track injuries occurring during races or at trials remain one of the key contributors to wastage.¹¹ Greyhounds that suffer injuries are routinely euthanised by the industry, even when the injuries are treatable. It was estimated that roughly 22.68 per cent of greyhounds that compete in a race, suffer an injury.¹² While the majority of injuries are subtle, their impact on a greyhound's performance means that injured greyhounds are nearly always discarded.¹³

CPG analysed thousands of official stewards' reports, including those produced by Greyhounds NSW, to produce *Lethal tracks 2021 – track-related deaths and injuries*. This report shows that 10,195 greyhounds were injured on Australian tracks in 2021. In NSW, 3074 greyhounds were injured and 92 of these were reported to be euthanised at the track.

In 2021, 85 per cent of greyhounds killed racing suffered leg fractures. These types of injuries are not lethal and can be treated. These findings do not account for the greyhounds that suffer injuries but are not diagnosed at the track. The majority of injuries go unidentified, and it is estimated that only 16 per cent of serious injuries are diagnosed by on-track veterinarians.¹⁴ The number of greyhounds reported to be euthanised due to injury is unlikely to reflect the reality.

3.2.2 Racing greyhounds are not protected under the current legislation

The *Greyhound Racing Act 2017* and the *Greyhound Racing Regulations 2019* do not specifically include a requirement that greyhounds with treatable injuries are not euthanised. Both these legislative instruments rely on the *NSW Greyhound Welfare Code of Practice* to establish animal welfare requirements. The Code of Practice specifies that veterinary treatment must be provided but it does not prohibit the euthanasia of greyhounds with treatable injuries. Similarly, the *NSW Companion Animals Act 1998* does

¹¹ Michael McHugh AC QC, *Special Commission of Inquiry into the Greyhound Racing Industry in New South Wales Report* Volume 2 <https://apo.org.au/node/65365> 11.30.

¹² Ibid 15.56.

¹³ Ibid 15.16.

¹⁴ Ibid 15.17

not include a provision to prevent the unnecessary euthanasia of animals that have treatable injuries.

3.2.3 Racing greyhounds are not protected under the proposed legislation

The Bill does not prevent the owners of racing greyhounds from euthanising their dogs after they have suffered a treatable injury as a result of a race, trial or exhibition. The minimum care requirements under section 13(2) only require that the responsible person provides the animal with appropriate treatment for disease, illness or injury, including preventative treatment, in a timely way when necessary. There are no qualifications that would prevent euthanasia from being considered an appropriate treatment.

Recommendation 2: Prohibit euthanasia of dogs with treatable injuries

The future legislative framework governing animal welfare in NSW must prohibit the euthanasia of dogs that have treatable injuries resulting from a race, trial or exhibition event. We submit that this can be achieved by either:

- (a) Amending section 22 to classify the euthanasia of a dog with a treatable injury incurred from a race, trial or exhibition as a 'prohibited procedure'; or
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3.3 Provide standing provisions that allow third parties to bring legal proceedings in the public interest

It is our firm belief that the enforcement mechanisms of the Bill should be enhanced by allowing any person to bring proceedings before the Court. It is not sufficient to rely on public authorities and the Royal Society for the Prevention of Cruelty to Animals (RSPCA) to respond to animal welfare violations, in all their different forms, across the entire state. The Court's ability to condemn and punish offences should not depend on the discretion of public officials or the resource constraints of non-government organisations. Individuals and groups have an important role in filling this enforcement gap by bringing proceedings.¹⁵

¹⁵ Morton, Rochelle et al. 'Explaining the Gap Between the Ambitious Goals and Practical Reality of Animal Welfare Law Enforcement: A Review of the Enforcement Gap in Australia' (2020) *Animals* 10(3) 482 <https://doi.org/10.3390/ani10030482>.

We submit that breaches of animal welfare laws are substantially different in nature from breaches of other legislative provisions. Animals are incapable of protecting and enforcing their own rights and as sentient creatures, they cannot be equated to property. It is incorrect to equate harm to an animal to property damage. The welfare of animals is a public good that the courts are bound to protect,¹⁶ It is in the interest of the public to ensure animals are treated ethically and where necessary, exploited sustainably.

Open standing provisions are commonplace in environmental jurisdictions. Limitations can be placed on open standing provisions to prevent vexatious or frivolous litigation, the most common being that the proceeding must be in the public interest. Litigation in this space would lead to the creation of case law that can better respond to unique moral and practical complexities of different animal welfare violations. We strongly advocate for the inclusion of an open standing provision to allow the legislation to be tested and enhanced by the courts.

Recommendation 3: Allow third parties to bring public interest legal proceedings

As part of the animal welfare reforms, legislation should provide for open standing so third parties are enabled to bring proceedings in the public interest. We submit that a provision should be inserted that is similar to s 9.45 of the *Environmental Planning and Assessment Act 1979 (NSW)* which provides that:

“Any person may bring proceedings in the Court for an order to remedy or restrain a breach of this Act, whether or not any right of that person has been or may be infringed by or as a consequence of that breach.”

3.4 Protect people who rescue animals held in vehicles during hot weather from being held criminally or civilly liable

Poor transport conditions contribute to the high levels of wastage in the greyhound racing industry. In 2021, the Greyhound Welfare and Integrity Commission reported conducting investigations into the unsatisfactory transport of greyhounds, resulting in their distress and suffering.¹⁷

“Greyhounds have an optimal internal body temperature between 38.0-39.5°C. The ideal air temperature of a greyhound’s environment should be between 16°C -24°C

¹⁶ Nurse, Angus, ‘Beyond the property debate: animal welfare as a public good’ (2016) *Contemporary Justice Review* 19 174 <https://doi.org/10.1080/10282580.2016.1169699>.

¹⁷ Greyhound Welfare and Integrity Commission, *2020/21 Annual Report* (2021) 16 https://www.gwic.nsw.gov.au/_data/assets/pdf_file/0007/1031488/Annual-Report-2020-21_FNL.pdf

to maintain the greyhound's internal temperature without the greyhound having to use excess energy."¹⁸

The inside of a vehicle can reach 38 degrees after being left in the sun for 10 minutes during 24-degree weather.¹⁹ Leaving an animal in that kind of heat gradually increases their core temperature, especially dogs as they can only lose heat by panting. Once their core temperature reaches 41.5 degrees, their cells will start to break down, causing heatstroke, organ damage, and in severe cases, death.

We submit that the definition of "hot weather" as an ambient temperature of 28 degrees will mean dogs can be kept in dangerous conditions. A dog should not be left in a vehicle in the sun for more than five minutes when the temperature is above 24 degrees. There should also be an exemption from liability for people that attempt to rescue an animal that appears to be suffering from symptoms of heatstroke.

Recommendation 4: Protect people who rescue animals held in vehicles during hot weather from being held criminally or civilly liable

The draft Animal Welfare Bill should be amended to lower the temperature threshold at which dogs can no longer be kept in a vehicle during hot weather. People that attempt to rescue an animal that is locked in a vehicle and at risk of suffering harm should not be held liable for any damage that they may cause. We submit that this can be achieved by:

- (a) Amending section 37(6) to define hot weather as an ambient temperature of 24 degrees or more; and
- (b) Inserting a provision similar to section 109A of the *Animal Welfare Act 1992* (ACT) which provides that a person does not incur criminal or civil liability if the person forcibly enters the motor vehicle, or assists another person to forcibly enter the motor vehicle to release an animal that appears to be at risk of serious injury or death.

3.5 Include surgical artificial insemination (surgical AI) in the list of prohibited procedures

CPG strongly supports the prohibition of surgical AI on a dog, which is included in the list of prohibited procedures in section 22 of the draft Animal Welfare Bill. However, we are

¹⁸ Greyhound Racing Victoria, 'Greyhounds and Hot Weather' Accessed 26 February 2022

<https://greyhoundcare.grv.org.au/greyhound-care/adverse-weather-conditions/greyhounds-and-hot-weather/>

¹⁹ Darren Cottingham, 'What temperature can it reach inside your car in summer?' *Driver Knowledge Tests*

[https://www.driverknowledgetests.com/resources/what-temperature-can-it-reach-inside-your-car-in-summer/#:~:text=Aper cent20carper cent20\(orper cent20aper cent20truck,aper cent20deadlyper cent2065per cent20degreesper cent20inside](https://www.driverknowledgetests.com/resources/what-temperature-can-it-reach-inside-your-car-in-summer/#:~:text=Aper cent20carper cent20(orper cent20aper cent20truck,aper cent20deadlyper cent2065per cent20degreesper cent20inside)

Draft NSW Animal Welfare Bill

extremely concerned about claims that the NSW Agriculture Minister, Dugald Saunders, made a commitment to the greyhound industry that the ban on surgical AI would be removed from the proposed NSW Animal Welfare legislation. Moreover, if this ban is removed, it will mean that all dogs bred for profit in NSW will continue to be subject to the cruel and painful surgical AI procedure whenever unethical breeders decide to use it.

3.5.1 Meeting between the Agriculture Minister and the greyhound racing industry

An article in the Greyhound Recorder on 16 January alerted the racing industry that the draft Animal Welfare Bill 2022 will include a ban on surgical artificial insemination on a dog. The article went on to say:

*"If the draft bill is passed by parliament and becomes law, frozen insemination would be banned ... the banning of surgical artificial insemination will destroy greyhound breeding in NSW if instituted."*²⁰

A meeting occurred on 3 February between Minister for Agriculture Dugald Saunders and industry participants from the Dubbo Club, Greyhound Racing NSW and NSW Greyhound Welfare and Integrity Commission. According to the article:

*"Saunders gave the gathering his undivided assurance that Frozen Semen procedures would be removed from the banned procedures noted in the proposed bill".*²¹

3.5.2 Conflicting information

The information provided in the Greyhound Recorder article uses inconsistent terminology, including comments that the draft legislation, if adopted by the NSW Parliament, would ban "frozen semen procedures" and "frozen semen insemination" (FSI). **This is wrong.**

The only reproductive procedure to be included as a prohibited procedure in section 22 of the draft *Animal Welfare Bill 2022* is surgical AI. It appears that some NSW greyhound racing industry participants are using the term FSI to refer to surgical AI (which is misleading and downplays this cruel and painful procedure).

The article also quotes a veterinarian who attended the meeting as saying that

"...frozen implants for breeding was the least invasive surgery undertaken by a vet. The surgery takes just on seven minutes and is far less traumatic and complicated than spaying (desexing) a canine." and

²⁰<https://www.thegreyhoundrecorder.com.au/news/the-sunday-afternoon-finish-on-68-39590>

²¹<https://www.thegreyhoundrecorder.com.au/news/crisis-averted-with-draft-bill-to-be-amended-39898>

"If the bureaucrats want to ban FSI, the desexing of companion animals would also need to be banned on a welfare basis."

It is difficult to imagine that a veterinarian would make such an uninformed comparison between surgical AI and desexing operations, or that a veterinarian would confuse frozen semen insemination and surgical AI. The latter can also include the insemination of fresh or chilled semen.

To ensure that surgical AI is not removed from the legislation because of assumptions and wrong information, we provide evidence in favour of retaining this procedure on the list of banned procedures.

3.5.3 Why surgical AI is nothing like desexing

Surgical AI by greyhound breeders is an arbitrary operation undertaken to produce puppies that can be funnelled into the racing industry and exploited for money. This applies to greyhounds that escape being part of the 25 per cent in NSW who never make it to the track and are known as "initial wastage". The greyhound racing industry breeds six times²² as many dogs as it can rehome.

It is absurd to draw any comparison with the desexing of dogs that is crucial given the hundreds of thousands of dogs that are unwanted and discarded every year.

Additionally, studies have shown the health benefits of desexing female dogs, for instance extended lifespan, reduced risk of mammary, ovarian and uterine tumours and medical conditions such as an infected uterus (call pyometra).²³

3.5.4 International bans on surgical AI

Surgical AI is prohibited by UK animal welfare legislation, which legally restricts mutilations to animals, i.e. procedures which interfere with sensitive tissue or bone structure.²⁴

Surgical AI is also banned in the Netherlands, Sweden and Norway, where it is considered to be ethically unacceptable.²⁵

3.5.5 The experts say surgical AI is unethical

According to the **RSPCA**: *"The routine use of surgical artificial insemination (AI) methods on female breeding greyhounds is an additional animal welfare problem associated with breeding. Surgical AI is highly invasive involving surgery and general anaesthesia and*

²² CPG [white paper](#) - A GAPing hole in the industry: Greyhound rehoming in Australia, 2021.

²³ Urfer, S.R. and Kaeberlein, M. 2019. Desexing Dogs: A Review of the Current Literature. *Animals* 9, 1086; doi:10.3390/ani9121086

²⁴ <https://www.rcvs.org.uk/news-and-views/features/standards-and-advice-update-january-2019>

²⁵ <https://www.canirep.com/insemination/>

causes significant pain to the female dog. In some EU countries, surgical AI is banned as it is considered ethically unacceptable."²⁶

The **British Veterinary Society** says: *"Unlike transvaginal AI or transcervical AI, which entails the use of a catheter to administer semen, surgical AI involves general anaesthesia and making an abdominal incision to insert semen directly into the uterus. The procedure is banned under the Animal Welfare Act, meaning undertaking it constitutes a breach of the law. Experts say it is also highly unethical and painful for bitches due to the subsequent pregnancy putting pressure on abdominal wounds."*²⁷

CPG has been given permission by Dr Rosemary Elliott, the President of **Sentient, the Veterinary Institute for Animal Ethics** (sentient.org.au), to provide the following statement: *"Sentient supports the introduction into animal welfare legislation of a restriction on surgical AI in all dogs, not just in greyhounds, with the exception of occasional instances where a veterinarian makes the call that for medical reasons, a surgical approach is necessary. Veterinarians who use this approach too often should be required to prove they are not breaching standards. Surgical AI requires general anaesthesia and can result in significant post-operative pain, seroma formation at the incision site and delayed wound healing. The Australian veterinary profession is currently reviewing the use of surgical AI in dogs and the British Veterinary Association is in favour of trans-vaginal or trans-cervical AI as an alternative, which is equally effective for achieving conception when skillfully performed. We submit, however, that non-surgical AI should be a restricted act of veterinary science due to the skill required to pass a catheter into the reproductive tract of a conscious animal. There is no evidence base to support the greyhound industry's view that surgical AI is superior. Furthermore, we submit that to continue using surgical AI on greyhounds is unethical because the surgery involved is not necessary for the health and welfare of the dogs concerned but is performed to generate income for the industry. Non-elective surgery performed on dogs for commercial reasons should be banned."*

3.5.6 Australian guidelines on surgical AI

CPG contacted the Australian Veterinary Association to ask if they had any guidelines for surgical AI. They responded as follows: *"At the moment we do not have a specific policy on this procedure, however we have a working group who are in the process of developing one. They are conscious of the UK and BVA position and the issues you have raised. I attach a recent letter published in our journal on this issue, which will also be considered by the working group. Without pre-empting any decision or recommendation they may*

²⁶<https://kb.rspca.org.au/knowledge-base/what-are-the-animal-welfare-issues-with-greyhound-racing/>

²⁷<https://www.bva.co.uk/our-journals/vet-record/vol-186-issue-5/is-surgical-artificial-insemination-still-being-offered/>

Draft NSW Animal Welfare Bill

make, it seems apparent that there are significant animal welfare considerations raised in the literature about surgical AI, and there is a less problematic alternative (trans-cervical AI) which provides just as good an outcome."

The letter referred to is an open letter from veterinarians *"with a particular interest, and postgraduate specialist qualifications, in veterinary reproduction (theriogenology)"*, which appeared in the Australian Veterinary Association journal of April 2021. The letter opens by saying, *"we are writing to our colleagues in the profession to consider the ethics and welfare of surgical artificial insemination in the canine."* and concludes with *"It is our considered opinion that welfare considerations dictate only per vaginum artificial insemination (preferably by TCI) in the canine."*²⁸

3.5.7 The science says trans-cervical AI is more effective than surgical AI

Trans-cervical artificial insemination is now the preferred type of artificial insemination on dogs in many countries.

Monash Veterinary Clinic is the biggest reproductive veterinary clinic in Victoria. They say: *"Transcervical Insemination is a superior method of insemination to surgical insemination. With TCI there is no need for the bitch to undergo an anaesthetic, there is no surgery. With TCI the bitch stands on the table and we use an endoscope and specially designed catheter to deposit the semen into the uterus of the bitch."*²⁹

The NSW Greyhound Welfare and Integrity Commission's handbook *Being a Greyhound Breeder* states: *"Done by an experienced and proficient person, this method can be completed quite quickly, and the results are thought to be similar or superior to the surgical method."*³⁰

Research also shows that trans-cervical AI is a more successful form of artificial insemination than surgical AI. A 2014 research paper published by Monash University³¹ showed that pregnancy rates achieved with trans-cervical AI was statistically significantly higher (65 per cent) than with surgical AI (45 per cent).

This paper also highlighted the difference in complications between the two types of AI:

"Complications in the SIU [surgical artificial insemination] group included anaesthetic-induced bradycardia during surgery, significant post surgery pain, seroma formation over the abdominal incision, and delayed wound healing. No complications were noted during or after insemination in the EIU [trans-cervical] group. In conclusion, these

²⁸<https://drive.google.com/file/d/1VTxbjdngxmFLGCpRoKa3mFOL1sI2ZrbW/view?usp=sharing>

²⁹<https://www.monashvet.com.au/frozen-thawed-semen.aspx>

³⁰https://www.gwic.nsw.gov.au/_data/assets/pdf_file/0005/987350/Being-a-Greyhound-Breeder-Handbook_V5.pdf 11.

³¹https://korthalgriffon.co.uk/onewebmedia/TCIper_cent20Vsper_cent20SIper_cent20Masonper_cent20article.pdf

results support the use of EIU as a noninvasive alternative to laparotomy for insemination of frozen-thawed dog semen."

3.5.8 Why is the Australian greyhound racing industry so protective of surgical AI?

A vet who is part of the CPG team had this to say: *"I believe there is a strong conception in the industry that surgical artificial insemination carries with it a better rate of impregnation, and given the expense to the owner of acquiring frozen semen, there is a resistance to move away from anything that reduces the chance of producing a successful litter. I am of the belief that the persistence with surgical AI is based on the antiquated belief of a better success rate."*

The Australian Veterinary Association's statement (see 3.5.6 above) supports this view.

Recommendation 5: Retain surgical AI as a prohibited procedure

While there is still debate as to what the Minister actually said he would remove from the draft Bill, we are concerned that surgical artificial insemination on a dog will be removed from the list of prohibited procedures in section 22 of the draft NSW Animal Welfare Bill 2022. This means that all NSW dogs would lose legal protection from this painful and unethical practice.

Evidence provided in our submission shows that the non-surgical alternative, trans-cervical AI is not only an equivalent reproductive technique, but a superior one, and that this has led to a number of countries banning surgical AI.

It would be devastating if surgical AI were to be removed from the list of prohibited procedures because of a misunderstanding by the greyhound racing industry and the Minister for Agriculture.

3.6 Live-baiting is a category 1 offence

CPG strongly supports live baiting to be a category 1 offence. Section 33 of the draft Animal Welfare Bill 2022 prohibits live baiting and specifies the maximum penalty available in the draft legislation, specifically that it is category 1 offence.

Recommendation 6: Retain live baiting as a category 1 offence

In February 2015, the ABC's Four Corners program aired video footage of live-baiting in the Australian greyhound racing industry. This included NSW members of the industry. The

Draft NSW Animal Welfare Bill

McHugh inquiry³² found that, despite the practice being illegal, the majority of greyhound trainers (up to 90 per cent) used this practice. The reaction by the Australian community, horrified that such a primitive and barbaric practice was accepted by those involved in greyhound training, makes it absolutely essential that anyone involved in live baiting be subject to the heaviest penalties available under the law.

CPG therefore agrees that live baiting must attract the heaviest penalties under the legislation to ensure a deterrent effect.

³² McHugh, M. 2016. Special Commission of Inquiry into the Greyhound Racing Industry in New South Wales. Sydney: State of New South Wales. <https://apo.org.au/node/65365>