

NSW Animal Welfare Reform – Discussion Paper – Survey Template

Introduction

This template allows people to prepare free-text responses to the NSW Animal Welfare Reform – Discussion Paper consultation survey. When complete, the responses can be copied and pasted into the online survey.

Please read the introductory material relating to the survey – including the privacy collection notice – prior to using this document. The survey is available here:

<https://forms.office.com/r/QsMuYDYwJS>

Each question relates to specific sections or information contained within the Discussion Paper and includes both a brief summary of the Discussion Paper's content and a page reference to the full information. We recommend that you have the Discussion Paper open as you complete the survey - the Paper can be accessed here:

<https://www.dpi.nsw.gov.au/animals-and-livestock/animal-welfare/animal-welfare-reform/discussion-paper/NSW-Animal-Welfare-Reform-Discussion-Paper.pdf>

You may answer as many or as few questions as you like.

Submissions close on 3 September 2021.

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Section 1 – Scope and Definitions

2. Do you have any comments on the proposal to repeal POCTAA, ARA and EAPA, and to replace them with a single, modern animal care and protection law (Proposal 1)?

This Proposal is to repeal the Prevention of Cruelty to Animals Act 1979, Exhibited Animals Act 1986 and Animal Research Act 1985 and replace them with a single, modern animal welfare law that covers all three current laws. This will result in a simpler, less confusing framework that is easier for the community to understand and follow.

This question refers to information on page 8 of the Discussion Paper.

The University of Sydney supports the intention to establish a modern animal welfare law with a simpler, less confusing framework that is easier for the community to understand and follow.

While we agree that the *Prevention of Cruelty to Animals Act 1979 (POCTAA)* and *Exhibited Animals Protection Act 1986 (EAPA)* should be replaced with a single, modern animal care and protection law, we firmly believe the *Animal Research Act 1985 (ARA)* should remain an independent Act. This is consistent with countries that are recognised world leaders in supporting the welfare of animals used in research, such as the UK and the Netherlands, where the legislation pertaining to animal research is covered by separate Acts (the *Animals (Scientific Procedures) Act 1986* in the UK, and the *Experiments on Animals Act* in the Netherlands). The European Union also reserves a separate Directive, *Directive 2010/63/EU*, on the protection of animals used for scientific purposes.

This is our preferred approach because the treatment and welfare of animals in a research setting is highly specific, and necessarily involves well-defined principles and processes that are unique to that setting. We are concerned that it may prove problematic to afford these aspects sufficient emphasis if they are not enshrined in a separate Act and believe the use of animals for research and teaching purposes requires a more nuanced regulatory setting that would be achieved more effectively by maintaining separate legislation governing animal research and teaching based on the 3Rs framework ('replacement', 'reduction' and 'refinement'). If a single animal welfare law that covers all three current laws is introduced, the new Act would need to include separate sections specific to animal research and teaching, which would supersede or involve exemption from considerations made elsewhere within the Act. This could impact the ability of the proposed new Act to achieve the simple and clear framework desired. While a single Act has been implemented in other states, there is a cleaner separation of potential harm to animals for justifiable reasons when it is enshrined in separate legislation.

Notwithstanding the above, the University supports the intention to simplify and improve consistency in the legislation, not only across Acts in NSW but across all Australian jurisdictions. Consistency could be further improved by:

- harmonising language and definitions across all relevant Acts in Australian jurisdictions;
- establishing of a consistent timeline for the review of animal welfare legislation and Codes. This would ensure a coordinated approach to incorporating current knowledge and expectations across all animal welfare legislation.

5. Do you have any comments on the proposal to update the objects of the new laws (Proposal 2)?

The proposed objects outline the intent of the new laws. For example, the new laws intend to provide for the care and protection of animals, and to protect animals from unreasonable or unnecessary harm. For the full proposed list of objects, please refer to the Discussion Paper.

This question refers to information on page 9 of the Discussion Paper.

The University of Sydney supports the proposal to update the objects of the Act and agrees that the objects of the new laws should focus on effectively explaining the purpose of the laws and communicating how the laws will achieve that purpose.

The examples of potential objects given in the Discussion Paper focus on negative outcomes as a measure of protecting animals from harm. This is a high-risk approach which we caution against. Instead, we recommend that the NSW Government consider a more positive approach to clearly and effectively explain the purpose of the new laws. We suggest reframing the proposed objects along the following lines:

Protect animals from unreasonable or unnecessary harm by:

- establishing acceptable whole of life standards that address biological, behavioural and psychological animal welfare needs
- identifying actions and activities that will result in cruel outcomes for animals and imposing appropriate preventative prohibition and penalties
- ensuring that high-risk activities with potential for severe negative welfare outcomes are identified, and restricting the conduct of such activities to those organisations and individuals able to demonstrate that they meet the required standards of performance and levels of competence.

Provide for the care and protection of animals by:

- establishing a baseline of acceptable conduct for the treatment of animals that focuses on sustainable, whole-of-life welfare, rather than meeting minimum standards.

Establish a framework for risk-based licensing of:

- scientific or educational use of animals, by giving consideration to appropriateness of inclusion in this Act when it will struggle to meet the implicit tenets of these objects and requires a more nuanced regulatory setting, which would be better achieved through separate legislation based on the 3Rs
- use of animals for exhibition, whether requiring complex or simple care.

7. Do you have any comments on the proposal to update the definition of animal (Proposal 3)?

The proposed definition of animal will result in a definition of animal that includes members of vertebrate species (such as amphibians, birds, fish, mammals (other than humans) and reptiles, as well as decapod crustaceans (e.g. crabs, lobsters) and cephalopods (e.g. octopuses, squids).

This question refers to information on page 10 of the Discussion Paper.

The University of Sydney strongly supports the proposed broadening of the definition of animal to include decapod crustaceans and cephalopods as there is compelling evidence that these species experience and respond to pain and distress (see also the response to Proposal 8).

The NSW Government should also consider defining the stage of life at which an animal is subject to the protections of the Act, for example:

- embryonic and foetal forms of mammals, birds and reptiles that have progressed beyond half the gestation or incubation period;
- fish and amphibia once they can feed independently; and
- cephalopods and decapod crustaceans at the point when they hatch.

The proposed update to the definition of animal could be further refined to legislatively recognise that animals are sentient beings, needing to be treated with care and respect. This is already incorporated into international legislation, as well as legislation in the ACT. A common approach across all Acts and jurisdictions, that reflects the common meaning of animal welfare and what is known about the sentience of the species, should be adopted and NSW legislation should aim to promote animal welfare at the highest level.

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Section 2 – Offences and Penalties

10. Do you have any comments on the proposal to introduce a minimum care requirement (Proposal 4)?

The minimum care requirement explains the basic obligations of people looking after animals. For example, this includes providing appropriate and adequate food, drink and shelter; providing timely veterinary treatment; and providing appropriate exercise and confinement. For a full description of the proposed minimum care requirement, please refer to the Discussion Paper.

Note: Failure to meet the minimum care requirement may, in certain circumstances, be considered a cruelty offence (e.g. where the failure results in animals being unreasonably or unnecessarily harmed).

This question refers to information on page 11 of the Discussion Paper.

The University of Sydney agrees, in general, with the proposal to introduce care requirements to explain the animal care and protection outcomes a person must achieve when looking after an animal/s.

We are conscious that a 'minimum requirements' approach carries the inherent risk that people default to providing the minimum standard of care. We therefore recommend changing the language to refer to 'required standards of care' or 'acceptable care requirements', which focus entirely on the whole of life wellbeing and welfare needs of the animals and cannot be limited or adjusted to meet financial, environmental or other restrictions. The acceptable care requirement would ideally be tailored to promoting a positive state of wellbeing rather than focusing on the lack of a negative state of wellbeing (in line with the Five Domains model of animal welfare). This could then be expanded to include the obligations listed on page 11 of the Discussion Paper, with further explanation about what the obligations mean in terms of animals' biological, behavioural and psychological needs. Regarding the obligations:

- 'appropriate and adequate shelter' should be expanded to include aspects such as protection from weather conditions, suitable space allocations and requirements for social interaction, amongst others;
- provision of 'treatment of disease or injury' specifically requires close monitoring of animal wellbeing and prompt response to divergence from 'normal';
- 'appropriate confinement' should address individual and species-specific ability to exhibit natural behaviours;
- 'appropriate exercise' should encompass both physical and psychological components to satisfy behavioural needs.

The imposition of penalties for failure to meet these standards needs to be prescribed clearly, but with the caveat that positive animal care is protected from prosecution.

Lastly, if the use of animals for research and teaching purposes is not addressed in a separate Act as suggested in our comments regarding Proposal 1, specific wording will be required to acknowledge the need for exemptions from meeting prescribed care requirements when it comes to research animals used in particular studies, that have been justified and approved by an animal ethics committee.

13. Do you have any comments on the proposal to update the definition of cruelty (Proposal 5)?

This proposal expands the current definition of cruelty to include psychological suffering, and consolidates a list of activities that are offences under the existing laws. For a full description of what is proposed to fall under the definition of cruelty, please refer to the Discussion Paper.

This question refers to information on page 12-13 of the Discussion Paper.

In general, the University of Sydney agrees with the proposal regarding all aspects of cruelty and aggravated cruelty. However, we reiterate that there may be situations in which scientific procedures may meet the definition for “acts of cruelty”. There would need to be clear exemptions in these cases and recognition that certain activities, when performed for research purposes and approved by an animal ethics committee, are considered as “reasonable” and “necessary”. This is another reason why we believe the involvement of animals for research and teaching purposes would be more appropriately managed in a separate Act with clear delineation of pre-eminence under prescribed compliance conditions.

15. Do you have any comments on the proposed new and enhanced offences (Proposal 6)?

New offences and enhancements of existing offences include:

- *Animal fighting and greyhound live baiting - consolidating existing offences into a single offence and extending the range of prohibited activities in relation to animal fighting [Enhanced]*
- *Tethering - providing additional guidance [Enhanced]*
- *Animals in hot vehicles [New]*
- *Production or distribution of animal cruelty material (e.g. animal crush videos) [New]*

This question refers to information on page 14-15 of the Discussion Paper.

The University welcomes the proposed new and enhanced offences and considers them appropriate.

The new ‘animals in vehicles’ offence is a positive step forward but its benefits could be limited if unnecessary exemptions are applied. It would be better to establish the standards required and expect all animal transport, even working dogs, to be afforded this protection from harm.

The NSW Government may consider adding restrictions around the use of animals, particularly horses and dogs, in hunting which is high risk to themselves and to the animals being pursued as prey.

16. Do you have any comments on appropriate exemptions that should apply to the proposed new offence of production or distribution of animal cruelty material (Proposal 6)?

Including appropriate exemptions will ensure that the proposed offence for production and distribution of animal cruelty material does not unintentionally capture things like reporting cruelty.

This question refers to information on page 14-15 of the Discussion Paper.

The University of Sydney supports the proposed new offences regarding the production or distribution of animal cruelty material and prohibited and restricted items. We would welcome further consultation about the specifics.

Material that could incite cruel and unnecessary use of animals through its distribution, particularly via the internet or social media, should be prohibited because it could trigger harmful behaviour by some people, which may not have happened otherwise.

Exemption may be required for some activities associated with animal research and material used by vets for teaching purposes in circumstances where the activities recorded may appear to be cruel. This could be avoided by inclusion in a separate Act regarding use of animals in research and teaching.

17. Do you have any comments on clarifying prohibited and restricted procedures (Proposal 7)?

The proposed approach to prohibited and restricted procedures involves retaining the current structure of some procedures being outright prohibited, and others being permissible only in narrowly specified circumstances. The details of how procedures are categorised is being reviewed and will be subject to future consultation.

This question refers to information on page 16-17 of the Discussion Paper.

The University of Sydney supports the proposal to clarify prohibited and restricted procedures. We do so noting the specifics, including the category and circumstances in which certain procedures may be performed, will be the subject of further review, consultation and advice from the Animal Welfare Advisory Council.

The prescribed circumstances must ensure a prohibited or restricted procedure may only be performed by someone with demonstrable competency. This will ensure that the animals do not experience unnecessary pain. It will be important to describe what 'demonstrable' means - i.e. significant experience in the successful conduct of the procedure with the required welfare outcomes in all circumstances; accredited training to undertake the procedure successfully that includes the knowledge and skills to ensure no unnecessary pain occurs. Additionally, 'unnecessary pain' needs to be defined. It could be argued that any pain is unnecessary or that a higher level of pain is unnecessary. This definition should be driven by the impact on the animal in terms of its ability to behave and move normally, have normal biological function and maintain weight, not only by the animal manifesting evidence of pain such as vocalising, wincing, biting, withdrawing.

19. Do you have any comments on the proposal to clarify how defences are intended to apply to give certainty to lawful activities (Proposal 8)?

The current laws include provisions that function as 'defences' to provide certainty for lawful activities. This is intended to clearly communicate the circumstances in which those activities are permissible – avoiding confusion. We propose retaining these provisions in the new laws, with some amendments to improve understanding of how they are intended to apply.

This question refers to information on page 18 of the Discussion Paper.

The University of Sydney does not have any concerns with this proposal, and agrees it is suitable that “undertaking animal research activities in accordance with the conditions of an animal research licence or project approval” is included as a listed defence. We believe it would be preferable, however, to address this activity in a separate Act. Placing animal research activities as a proposed defence, risks negatively impacting public perception at a time when improving public understanding of the use of animals for research and teaching purposes is vital. Increasing openness and transparency should be another key objective of these legislative reforms.

There are some other aspects of the proposed defences that will need careful consideration. For example, the use of live sentient bait for fishing, which is potentially cruel for both the bait and the catch animal.

We believe that the proposal should also address unnecessary pain, to provide clarity about the intent of the proposed defences and the point at which the activities described move from defensible to indefensible.

20. Do you have any comments on applying these proposed defences to the serious animal cruelty offences under the *Crimes Act 1900* (Proposal 8)?

This question refers to information on page 18 of the Discussion Paper.

Applying the proposed animal research defence to the serious animal cruelty offences under the *Crimes Act 1900* is of particular concern because of the potential negative impact on public perception, as outlined in our response to Question 19. As previously stated, we believe it would be preferable to address the use of animals for research and teaching purposes in a separate Act given the genuine intent of research and teaching activities in this field to benefit humans and/or animals and/or the environment.

22. Do you have any comments on the proposal to establish a consistent penalties framework (Proposal 9)?

The proposed penalties framework is based on the higher penalties recently introduced by the Prevention of Cruelty to Animals Amendment Act 2021 and ensures that penalties for offences are aligned and applied in consistent ways, with clear escalation pathways for more serious offences.

This question refers to information on page 19-20 of the Discussion Paper.

The University of Sydney supports the proposal to introduce a consistent, modern framework of penalties. However, we maintain that it would be preferable for the use of animals for research and teaching purposes to be regulated under a separate Act to avoid confusion within the intent of an Animal Welfare Act.

For example, it is important that animal research remains exempt from meeting ‘minimum (acceptable) care requirements’ in certain circumstances when approved by an animal ethics committee.

Consideration needs to be given to the way these penalties would be applied in the specific circumstance of an act of cruelty being committed during the conduct of animal research. For example, in a situation where a procedure that cause distress to an animal is conducted without appropriate ethics approval, could the individual be found to have committed an act of cruelty (Category 2 offence) in addition to undertaking a licenced activity without a licence (Category 3 offence)?

Consideration also needs to be applied to how the proposed penalties' framework would interact with the requirements and current processes of the Australian Code for the Responsible Conduct of Research 2018.

23. Do you have any comments on the detailed breakdown of offences included at Appendix A (Proposal 9)?

Appendix A includes additional detail on the intended scope of proposed offences and aligns each offence to one of the offence categories outlined in the penalties framework.

This question refers to information on page 19-20 and 38-51 of the Discussion Paper.

If the use of animals for research and teaching purposes is be covered by the proposed new single Act, then protection from prosecution for legitimate, justified activities with benefit to humans and/or animals and/or the environment will need to be assured. A separate Act would be a better solution and would be in line with countries with the highest standards in animal welfare and research.

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Section 3 – Authorised Officers

25. Do you have any comments on the proposal to allow authorised officers to administer sedatives or pain relief to animals (Proposal 10)?

This proposal is intended to provide authorised officers with the option to administer sedatives or pain relief to an animal for the purpose of minimising suffering until the animal can receive appropriate veterinary treatment. Authorised officers would have to be appropriately trained and approved to access and use controlled substances.

This question refers to information on page 21 of the Discussion Paper.

The University of Sydney strongly supports the proposal to enhance animal welfare in emergency situations. However, the training of individuals must be carefully regulated. There are many potential side effects to the administration of both sedatives and analgesics and these agents need to be prudently used in relation to the whole animal. Comprehensive physical exams or reviews of the whole animal physiology need to occur to ensure no additional harm is inflicted. Strict regulation of these treatments, including euthanasia solutions and Schedule 8 drugs (e.g. opioid analgesia), also need to be implemented to ensure minimal risk of the abuse of such substances.

27. Do you have any comments on the proposal to amend powers of entry (Proposal 11)?

Authorised officers use their powers to enter premises to carry out investigations and compliance functions, including responding to critical welfare issues. The new laws propose to align and clarify the powers available under the three current laws to ensure they are fit for purpose and appropriately balance privacy concerns.

The proposed powers of entry establish that an authorised officer may enter premises (other than dwellings):

- *on reasonable suspicion of an offence*
- *to check compliance with a Direction Notice, court order, or disqualification*
- *at any reasonable time, to check compliance where there is reasonable suspicion that any industrial, agricultural, commercial, or licensed activity is being carried out in respect of an animal on the premises.*

Authorised officers would only be permitted to enter dwellings with the authority of a search warrant or consent of the occupier.

This question refers to information on page 22-24 of the Discussion Paper.

The University of Sydney appreciates the inclusion of the wording “enter at a **reasonable time** for the purpose of ensuring compliance”. There may be circumstances where it would not be reasonable for an inspector to enter an animal research facility, for example due to biosecurity concerns, or during a sensitive surgical procedure. Planned inspections of animal research facilities are sensible as this enables inspections to be conducted effectively without negative impact on the animals or the research. Separate legislation would avoid this by having specific caveats apply that prevent animal welfare compromise due to increased powers of entry.

29. Do you have any comments on the proposal to allow certain government officials to exercise a limited set of powers to care for animals in critical situations (Proposal 12)?

The proposed powers would enable certain Local Land Services and council officers - when appropriately trained - to become authorised under the new laws - to alleviate suffering in critical situations. This will allow them to assist other enforcement agencies during critical situations.

This question refers to information on page 25 of the Discussion Paper.

The University of Sydney supports this proposal.

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Section 4 – Enforcement Arrangements

30. Do you have any comments on enforcement arrangements for the new laws (Proposal 13)?

The Prevention of Cruelty to Animals Act 1979 is currently enforced by the NSW Police Force, RSPCA NSW and Animal Welfare League NSW. The Animal Research Act 1985 and Exhibited Animals Protection Act 1986 are both enforced by the NSW Department of Primary Industries.

This question refers to information contained on page 26 of the Discussion Paper.

The University of Sydney agrees that the existing arrangements for enforcing laws should remain in place. An independent office of animal protection is not required. The enforcement of animal research and teaching requirements should continue to be overseen by the NSW DPI, as per existing arrangements.

32. Do you have any comments on the proposal to improve oversight of the enforcement activities of the approved charitable organisations (RSPCA NSW and Animal Welfare League NSW) (Proposal 14)?

Proposals related to improving the oversight of the RSPCA NSW and Animal Welfare League compliance activities include providing for the NSW Ombudsman to investigate complaints about enforcement, clarifying that the enforcement agencies are subject to the Government Information (Public Access) Act 2009, and requiring annual reports to be tabled in Parliament.

This question refers to information on page 27 of the Discussion Paper.

The University of Sydney agrees with this proposal, as per existing arrangements.

34. Do you have any comments on the proposal to amend approved charitable organisation rehoming provisions to align them with the Companion Animals Act 1998 (Proposal 15)?

The Prevention of Cruelty to Animals Act 1979 requires longer holding periods before animals can be rehomed compared to similar provisions under the Companion Animals Act 1998 (CAA). Aligning the requirements under the two Acts will ensure that appropriate steps are taken to reunite lost animals with their owners, while also minimising the time unowned or abandoned animals spend in shelters prior to being rehomed. Current CAA restrictions on rehoming dangerous, menacing or restricted dogs will also apply under the new laws.

This question refers to information on page 28 of the Discussion Paper.

Aligning the two Acts to establish a shorter mandatory holding period would be a positive change. The proposal still provides sufficient time for genuine animal owners to retrieve their pets, while limiting the negative impact of shelters on the animals, including the need for euthanasia. This is an important aspect of improving the chances of unowned or abandoned animals being rehomed as extended time in shelters can create behaviours that mean animals are deemed unfit to rehome and result in euthanasia.

The use of rescue groups to support larger shelters and provide fostering, rehabilitation and home-style care can also make a positive contribution to the rehoming of unclaimed stray animals.

36. Do you have any comments on the proposal to align the statutory limitation provisions (Proposal 16)?

Statutory limitation periods refer to the length of time in which enforcement agencies may bring forward a prosecution after an alleged offence was committed. This proposal will align the different approaches taken under the existing laws by allowing prosecutions to commence within three years of the date of the alleged offence, or within three years of the date on which evidence of the alleged offence first came to the attention of an authorised officer.

This question refers to information on page 29 of the Discussion Paper.

The University of Sydney supports a statutory limitation period of three years from the date an offence is alleged to have occurred. A three-year period is sufficient to allow for an extended investigation period in complex matters. However, the option of the three-year limitation period commencing from the date an alleged offence first comes to the attention of an authorised officer is not supported. Such a move would extend the limitation period unreasonably, creating a risk that evidence relevant to a prosecution is no longer available.

38. Do you have any comments on the proposed approach to standardise authority to prosecute provisions (Proposal 16)?

This proposal aligns the different approaches under the existing laws by specifying that certain groups, who have investigative powers and knowledge of animal welfare and judicial processes, can commence prosecutions.

This question refers to information on page 29 of the Discussion Paper.

As noted above, the University of Sydney believes strongly that a separate ARA should be retained because the nuanced situation in the research and education setting would be better served by its own separate Act. However, the University supports, in-principle, the concept of having a uniform approach to the prosecution provisions.

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Section 5 – Miscellaneous

40. Do you have any comments on the proposal to broaden the application of Stock Welfare Panels and improve how they function (Proposal 17)?

The proposed improvements to Stock Welfare Panels include extending the process to apply for intensive livestock and on smaller parcels of land, and in situations where the failure to appropriately care for the animal has resulted in the animal becoming distressed or likely to become distressed. Other proposed changes include preventing stock owners who have had their animals seized from immediately re-purchasing the seized stock or immediately acquiring new stock, and allowing police to exclude a person from the scene of a seize and dispose operation to protect the safety of people involved in the seizure.

This question refers to information on page 30-31 of the Discussion Paper.

These changes seem reasonable for the agricultural sector. However, further information is required as to how it relates to the livestock research environments. Separate legislation for this environment would avoid any potential risk that could result in loss of research animals and data.

41. Do you have any comments on the proposed enhancements to court orders (Proposal 18)?

The proposed enhancements would allow courts to use court orders in situations where alternatives to prosecution (e.g. mental health treatment pathways) are used to deal with a case. Additionally, the new laws will ensure that animals can be seized where they are held in contravention of a court order or by a disqualified person.

This question refers to information on page 32-33 of the Discussion Paper.

This proposal is supported but reinforces the importance of agencies in different jurisdictions collaborating to identify and monitor people with animal cruelty convictions, or engaged in questionable activities, who move between states and territories.

42. Do you have any comments on the proposed approach to licensing schemes and committees (Proposal 19)?

The current laws license exhibited animals and animal research to provide additional oversight of these activities. These activities will continue to be licensed under the new framework, with additional detail on these licensing schemes and their associated committees (the Animal Research Review Panel and Exhibited Animals Advisory Committee, respectively) to be included in the Regulation. These specific provisions will be developed in consultation with key stakeholder groups and the community.

This question refers to information on page 34 of the Discussion Paper.

The University of Sydney generally supports a risk-based approach to licencing, especially under the ARA. This will allow for low-risk studies, for example wildlife observational studies, to be excluded from the full scope of the proposed review and reporting requirements. Human Research Ethics has adopted this approach and uses a system of committees appropriately established to assess low and high-risk research. This approach

should be examined as a methodology, if a risk-based approach is to be considered for the ARA and EAPA. Adoption of this model would offer a level of review that ensures low-risk research is confirmed and approved with the capacity to send matters to a full animal ethics committee if they are deemed to be more complex than first assessed.

However, we also recognise the possibility that a risk-based approach may result in greater complexity and the potential for significant ambiguities to arise if licensing requirements become dynamic and are executed in a variable manner. If a risk-based approach is adopted, clear guidelines will minimise this situation from eventuating.

It is unclear whether the Animal Research Review Panel (ARRP) will definitively remain in place under the proposed new Act, or be prescribed by Regulation, which can be subject to alteration. The ARRP plays a critical role in informing animal research in NSW, including developing guidelines. It also provides an important source of understanding and knowledge about animal research, which NSW cannot afford to lose. We would prefer that the ARRP remain within a separate Act covering the use of animals in research and teaching.

43. Do you have any comments on the proposal to consider risk-based principles when reviewing licensing schemes?

Applying risk-based principles to the updated licensing schemes, where appropriate to do so, would allow for more effective targeting of administrative requirements and compliance efforts to achieve better outcomes for animals, without reducing oversight of the licensed activities.

This question refers to information on page 34 of the Discussion Paper.

The University of Sydney agrees with the proposal to take a risk-based approach to licencing for animal research and teaching. Please see our answer to the previous question.

44. Do you have any comments on the minor amendments and retained provisions (Proposal 20)?

Proposed minor amendments include aligning and modernising the different sets of authorised officer powers and compliance tools currently available under the different Acts; amending liability protection and updating ways in which notices can be served. Provisions proposed to be retained include the use of prescribed Standards and the concept of a person in charge (retitled to 'responsible person').

This question refers to information on page 35-36 of the Discussion Paper.

It is unclear who the 'responsible person' is in relation to animal research and teaching and how this relates to the concept of the 'person with ultimate responsibility' as defined in the *Australian code for the care and use of animals for scientific purposes* and/or the licence nominee for an animal research establishment.

The ARA has served the scientific and education sector for animal use very well. While it may be appropriate to harmonise the three acts so that definitions are uniformly applied to an updated Animal Welfare Act, we reiterate that we would prefer that the ARA remains separate, for reason stated in our previous answers.

Final comments

45. Do you have any other ideas or comments for the new laws that were not specifically considered in this Proposals Paper?

The University of Sydney would like to offer additional comments related to the reporting of animal use statistics and the consultation process:

- Although not outlined in this Act, we recommend that the NSW Government consider aligning the reporting of animal use statistics with countries that have the highest standards in animal welfare and research, such as the UK. This is of particular importance in the modern global environment, where openness in animal research is increasing and the animal welfare standards in different countries are being compared.
- The University notes that there has been a targeted consultation in the development of these Proposals and that the “stakeholders were chosen because they have a legislated role related to animal welfare or to provide balanced stakeholder representation”. We are concerned that balanced representation of stakeholders that operate under the ARA may not have been achieved. The University recommends that the NSW Government consider including the following animal research organisations in future targeted consultations:
 - *NSW universities through the New South Wales Vice-Chancellors’ Committee, Deputy Vice-Chancellors Research Committee*, given their responsibilities for research involving animals, including research conducted by affiliated researchers based in Local Health Districts, hospitals and independent medical research institutes, in accordance with universities’ policies.
 - *The Heads of the Schools of Veterinary Science at the University of Sydney and Charles Sturt University*, given their particular expertise in relation to animal welfare, education and research.
 - *The NSW Department of Health’s Office of Health and Medical Research*, given its responsibilities for research policy and funding throughout the NSW health system.
 - *The NSW Chief Scientist and Engineer*, given that office’s responsibilities for policy and advice to the NSW government in relation to scientific research.
 - *Australian and New Zealand Council for the Care of Animals in Research and Teaching (ANZCCART)*, if there is only one organisation to be part of a targeted consultation, representing animal research and teaching under the ARA, then ANZCCART should be this organisation as they have an overview of all research and teaching in Australia, from laboratory animals to wildlife, livestock and companion animals involved in research and teaching. ANZCCART’s role is to provide leadership in developing community consensus on ethical, social and scientific issues relating to the use and wellbeing of animals in research and teaching and it is supported by Commonwealth Scientific and Industrial Research Organisation

(CSIRO), Royal Society Te Apārangi (RSNZ), Universities Australia (UA), State Government Departments responsible for the management of animal welfare legislation and also members.

- *Australian and New Zealand Laboratory Animal Association (ANZLAA)*, is the industry association for those providing daily care of animals used in research. Its members are in a unique position to directly observe animal research.
- *Sydney Animal Research Ethics Group (SAREG)*, consists of animal welfare officers, animal ethics executive officers and laboratory animal facility managers. Members' credentials include qualifications in animal technology, veterinary sciences, management and administration. Most members are employed at universities or research institutes.