

Community Consultation Report

Draft Animal Welfare Bill 2024

SOUTH AUSTRALIA



Government
of South Australia

Department for
Environment and Water

Contents

Executive summary.....1

Introduction.....3

 Background3

 How we engaged3

 Who we heard from.....4

 Next steps5

Engagement outcomes6

 Reform areas 1 and 2 – Update the purpose and include objects in the Act, and better recognise animal sentence6

 Reform area 3 – Broaden the definition of animal.....7

 Reform area 4 – Introduce a duty of care8

 Reform area 5 – Improve regulation, oversight and transparency of research and teaching9

 Reform area 6 – Increase the ability to administer and enforce the Act.....12

 Reform area 7 – Contemporise government and administrative provisions for the Animal Welfare Advisory Committee18

 Miscellaneous19

Other feedback..... 20

Acknowledgement of Country

The Department for Environment and Water acknowledges Aboriginal people as the First Peoples and Nations of the land and waters we live and work upon and we pay our respects to their Elders past and present. We acknowledge and respect the deep spiritual connection and the relationship that Aboriginal and Torres Strait Islander people have to Country.



Executive summary

The South Australian Government has committed to reviewing the Animal Welfare Act to ensure that it reflects modern practices and community expectations.

In April 2024, the government consulted the community and key stakeholders for their views on the *Animal Welfare Bill 2024* to replace the *Animal Welfare Act 1985*.

Feedback on the Bill was mostly positive with a majority of reforms receiving strong support. The community clearly values the protection of animal welfare.

The Department for Environment and Water received 1,002 responses, made up of responses to the online YourSAy survey and written submissions. This report summarises what we heard and the next steps.

Key themes from the consultation

You strongly supported:

- increases to penalties
- a new duty of care
- better recognition of sentience
- inclusion of fish and cephalopods (used for scientific purposes)
- enforcement of interstate prohibition orders in South Australia
- interim orders
- mandatory reporting of suspected animal welfare offences within the greyhound racing industry.

You raised concerns about:

- dealing with seized animals and the review process
- regulation-making powers where these introduce new limitations
- ensuring a balanced and representative Animal Welfare Advisory Committee
- general exemption for fishing activities, however the commercial and recreational fishing and aquaculture sectors welcomed surety that usual fishing practices will be able to continue
- broad Ministerial exemption powers.

The feedback identified some areas that require consideration for amendments to the Bill. These areas include:

- amending the broad Ministerial exemption provision to apply in limited scenarios for specific purposes
- including a mandated consultation process for regulation-making powers
- expanding the mandatory reporting requirement within the greyhound industry provision to include volunteers and contractors
- making sure that the Bill is clear and logical so that users can understand their rights and obligations.

Some feedback received during the consultation process was beyond the scope of the Animal Welfare Act but has been captured for future consideration as appropriate. This includes opportunities that will be considered during the development of regulations and policy.

As the main piece of legislation governing animal protection in the state, the new Animal Welfare Act will apply to all South Australians. The review process has provided a Bill that modernises the legal framework for animal protection and ensures that South Australia is consistent with other leading states and jurisdictions.



Introduction

Background

The South Australian Government committed to reviewing the Animal Welfare Act to ensure that it meets community expectations. In early 2023, a first stage of community consultation was undertaken via the YourSAy platform, which identified several reform opportunities. The Animal Welfare Bill was drafted incorporating changes to achieve these reforms.

The reforms were:

- 1 Update the purpose and include objects in the Act – *to better explain why the law exists and help the reader interpret its intent.*
- 2 Better recognise animal sentience – *to acknowledge that animals experience feelings, both positive, such as pleasure, or negative, such as pain and fear.*
- 3 Broaden the definition of animal – *to allow the law to cover more types of animals by removing the exclusion of fish, and including cephalopods (such as squid, octopus, cuttlefish) for scientific purposes.*
- 4 Introduce a 'duty of care' provision – *to create a positive requirement to provide a minimum level of care.*
- 5 Improve regulation, oversight and transparency of the research and teaching sector – *to enable greater accountability and address community concerns.*
- 6 Increase the ability to administer and enforce the Act – *to provide appropriate powers and ability to hold to account people that do not meet animal welfare requirements, preventing cruelty and promoting welfare.*
- 7 Contemporise the governance and administrative provisions for the Animal Welfare Advisory Committee – *to ensure that animal welfare advice comes from a transparent and diverse group.*

Community views were sought on the draft Bill and the proposed changes in April–May 2024. This Consultation Report summarises the feedback received.

How we engaged

Stakeholder conversations

Key organisations across multiple industries, agencies and sectors participated in conversations in early 2024 to discuss the proposed changes and possible impacts. The process provided the opportunity for stakeholders to understand how the reforms would be drafted and offer industry insights on how they would apply in practice.

YourSAy community and stakeholder consultation

An *Explanatory Paper to the Draft Bill*¹ supported the consultation, guiding participants through the Bill. A suite of frequently asked questions also accompanied the consultation.

A survey available on the South Australian Government's YourSAy platform was the primary mechanism to gather feedback. The survey was open for a 4-week period between April and May 2024. Participants were asked to rate each proposal using a Likert scale, ranging from 'strongly disagree' to 'strongly agree', and were also able to add comments. They were able to complete the survey in full, or skip questions. Key organisations were invited to provide a written response to the consultation questions. There were several questions where the rating on the Likert scale did not match with the comments provided, and these points are explained in this report where applicable.

The Department for Environment and Water promoted the consultation through multiple channels, including social media, traditional media via a media release and email.

A total of 1,002 submissions were received, made up of 979 surveys through YourSAy and 23 written submissions. Of the responses received 969 were from individuals and 33 from peak bodies, groups and other organisations. Some groups ran campaigns encouraging members to submit responses by using or modifying prepared text with recommended submissions.

1 <https://yoursay.sa.gov.au/animal-welfare-draft-bill>

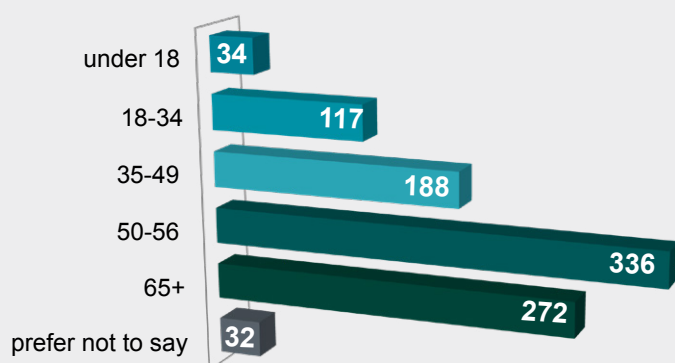


Who we heard from

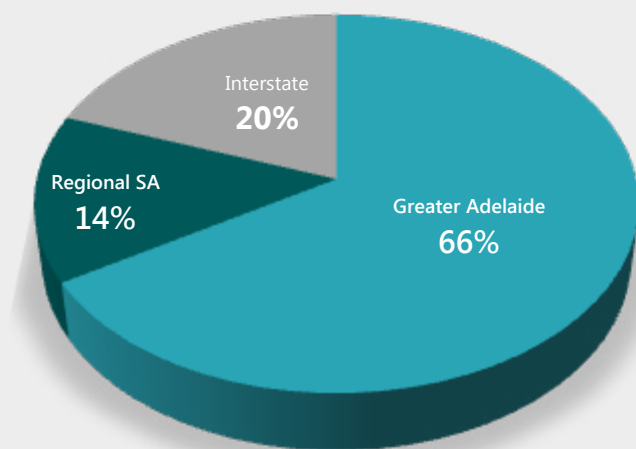
YourSAy respondents

The survey received 979 responses from range of respondents.

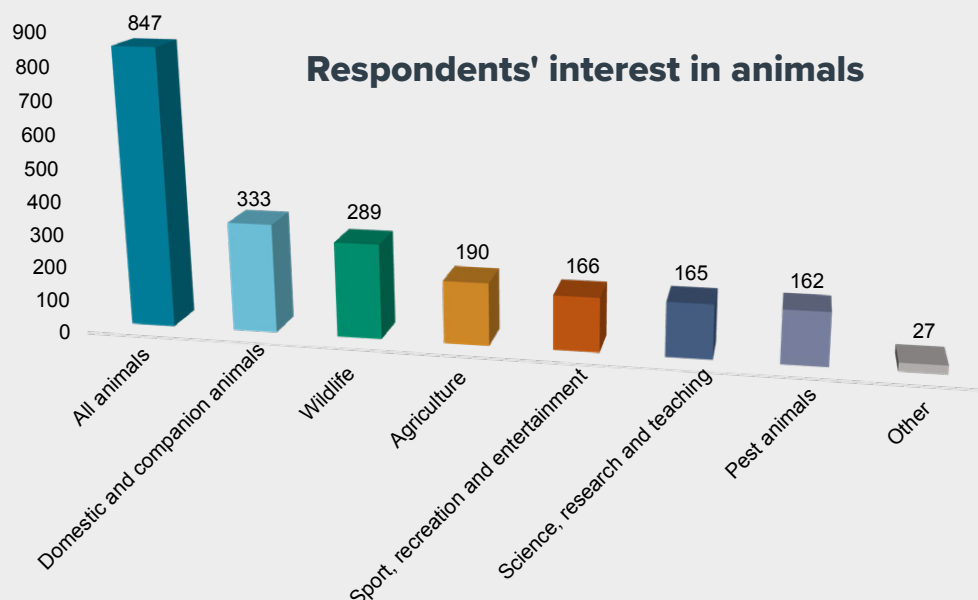
Respondents by age



Respondents' location



Respondents' interest in animals





Organisations

Submissions identified as being made on behalf of an organisation (whether submitted by email or through YourSAy) included:

- Animals' Angels Australia
- Animals Australia
- Animal Care Australia
- Animal Defenders Office
- Animal-free Science Advocacy
- Animal Justice Party South Australia (AJP SA)
- Australian Chicken Meat Federation
- Australian Lot Feeder's Association
- Australian Meat Industry Council
- Australian Pet Welfare Foundation
- Australian Pork Limited
- Australian Veterinary Association
- Conservation and Hunting Alliance of South Australia (CHASA)
- Conservation Council South Australia
- Department for Education
- Animal Ethics Committee
- Electronic Collar Manufacturers Association
- First Nations of South Australia Aboriginal Corporation
- Halter
- Humane Society International – Australia (HSI-Australia)
- Livestock SA
- People for the Ethical Treatment of Animals (PETA)
- Primary Producers SA
- Professional Dog Trainers Australia
- Racing South Australia
- Royal Society for the Prevention of Cruelty to Animal South Australia (RSPCA)
- South Aussies for Animals
- Southern Koala and Echidna Rescue
- Sheep Producers Australia
- Sentient Animal Law Foundation
- South Australian Dairyfarmers' Association (SADA)
- South Australian Health and Medical Research Institute (SAHMRI)
- The Law Society of South Australia
- Zoo and Aquarium Association (ZAA)
- Zoos South Australia

Next steps

The feedback provided through the key stakeholder conversations and public consultation has identified modifications that would improve the Bill. The Department for Environment and Water will coordinate the amendments process. The updated Bill will be introduced to the South Australian Parliament and Parliamentary debate may result in further amendments. When passed by both houses, the Bill will be assented to by the Governor, and become part of South Australian law.

Engagement outcomes

Reform areas 1 and 2 – Update the purpose and include objects in the Act, and better recognise animal sentience



What we heard

There was strong support (76%) for including principles and objects in the Bill, and the better recognition of sentience. While several comments asked for the term ‘sentience’ to be explicitly used, respondents were generally supportive of the principles as drafted.

Examples of feedback received

“All animals regardless of species, deserve to be treated with respect, kindness and compassion.”

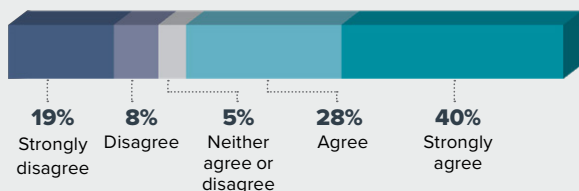
“The proposed new definition of ‘animals’, the inclusion of sentience and the requirement of a duty of care are excellent additions to the Act.”



Reform area 3 – Broaden the definition of animal

We asked

Do you think the definition of animal is appropriate?

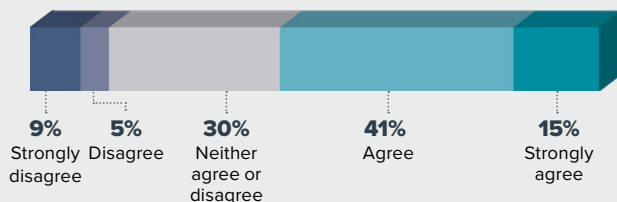


The definition of 'animal' has been updated to include fish, and additionally to include cephalopods when used, supplied or kept for scientific purposes.

Definition of animal: s3 'Animal' means –

- (a) a member of any species of the subphylum vertebrata other than a human being; or
- (b) a member of the class Cephalopoda if it is being supplied, kept or used for scientific purposes; or
- (c) a prescribed animal or a prescribed animal kept or used in prescribed circumstances.

Do you think that the exemptions for fishing activities will enable normal practices to continue?



What we heard

The updated definition of animal received clear support, however 27% of respondents disagreed with the proposed definition. Participants generally disagreed with the proposed definition because, although they were pleased to see the update, they wanted it to include cephalopods in all situations and add decapod crustaceans.

Only 16% of responses thought that normal fishing practices would not continue, with 30% of respondents neither agreeing nor disagreeing. The accompanying comments indicated that a blanket exemption is not appropriate, and that the public expects fishing activities to be conducted in a humane way by everyone. The responses also highlighted concern that changes could be made via regulations without consultation.

Examples of feedback received

“The definition of animal must also include cephalopods (without the restriction of scientific purposes) and crustaceans.”

“This should be about protecting fish, not fishing activities.”

Further considerations and changes

A mandated consultation process for regulations that change definitions will be proposed in the updated Bill.

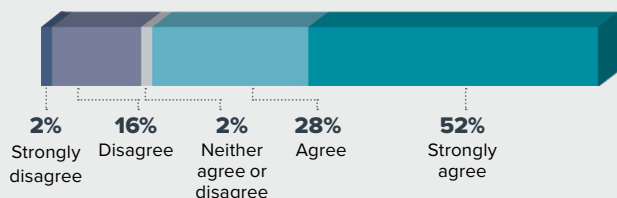


Reform area 4 – Introduce a duty of care

Duty of care is found in 2 parts of the Bill, as a principle in section 4 and as an offence in section 5.

We asked

Do you think the duty of care provision is appropriate?



The Bill introduces a proactive 'duty of care' provision. Anyone who is responsible for an animal must make sure it has appropriate food, water and living conditions. The current Act contains the implicit requirement, the Bill makes it explicit.

What we heard

The duty of care provisions received strong support, with 80% of respondents agreeing or strongly agreeing that a duty of care is appropriate. Of the 18% who disagreed, comments predominantly wanted the duty to encompass more requirements and be more prescriptive.

Examples of feedback received

“That owners have a duty of care is important for accountability.”

“I agree with the inclusion of a duty of care provision but would add the requirement to provide reasonable medical treatment.”

“The owners of animals have a duty of care for the physical and mental welfare of those animals.”

Further considerations and changes

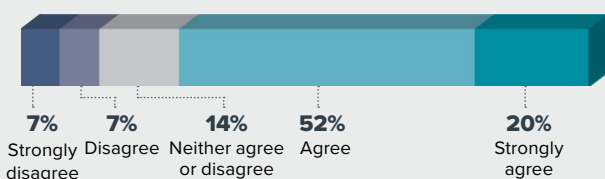
The requirement to provide 'appropriate and adequate' welfare outcomes will differ by context, circumstance and species. The Bill includes an ability to prescribe further requirements in the subsequent regulations, while the existing regulations contain specified requirements for several species.

Another issue that concerned stakeholders was whether the term 'owner' is broad enough to cover any situation where a person has responsibility for an animal. Owner encompasses any person who has 'custody, care, control or management of an animal'. This is sufficiently broad to cover any situation in which a person has responsibility, and therefore a duty of care, to an animal.

Reform area 5 – Improve regulation, oversight and transparency of research and teaching

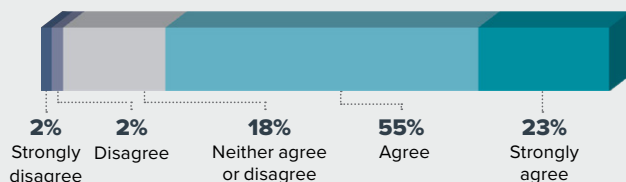
We asked

Do you think the wording of ‘scientific purposes’ is appropriate?



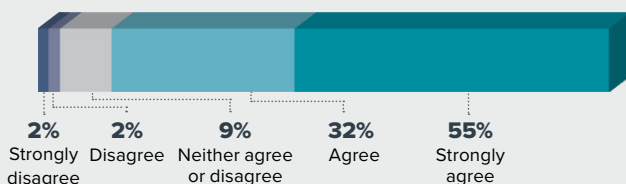
The current Act refers to ‘teaching and research involving animals’. This has been updated to ‘the use of animals for scientific purposes’ in line with the *Australian Code for the Care and Use of Animals for Scientific Purposes*.

Do you think the separation of licences is appropriate?



The current Act has a ‘Teaching and Research Licence’. The Bill creates 2 classes of licence, one associated with the scientific use of animals, and the other covering breeding and supply of animals for scientific use.

Do you think it is appropriate to have a nominated person for a licence?



Each licence will need to have a nominated person who takes responsibility for compliance with its conditions.

What we heard

The definition of scientific purposes was supported by the majority of respondents (72%).

78% agreed with multiple classes of licence being introduced. Generally, stakeholders agreed that different licence types would provide more flexibility. Some stakeholders were unsure which licence would apply to their operation, and wanted more clarity on how the proposed licenses would operate. Several comments called for animal use for scientific purposes to be banned or phased out.

There was overwhelming support for a nominated person, which was viewed as improving accountability (87%). Concerns centred on the risk that a nominated person may be potentially held responsible for another person’s wrongdoing.

Examples of feedback received

“The provision for additional licence classes is imperative for the ability to adapt legislation to evolving research and growing ethical considerations from the public.”

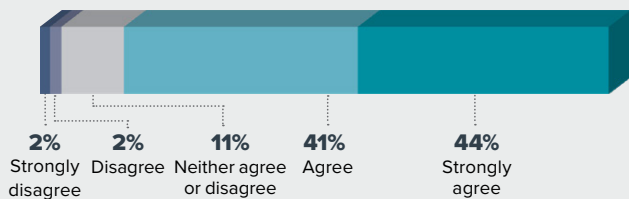
“Unsure how the proposed licensing would apply to commercial farms...”

“We do not agree with nominating one person to be responsible for the license of an organisation.”



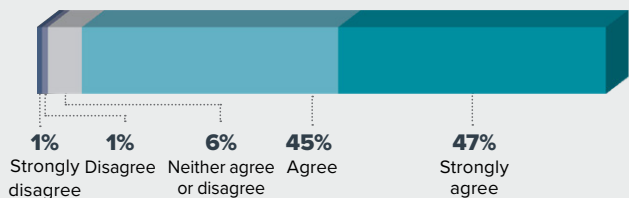
We asked

Do you think it is appropriate to have registered activities/entities?



The Bill introduces a power to create registers and require an activity/entity to be registered. Animal Ethics Committees (AEC) will be required to be registered. Other activities that require registration could be prescribed in a regulation.

Do you agree that Animal Ethics Committees should be registered and require a nominated person?



The Bill proposes that AECs will be registered entities and require a nominated person.

What we heard

Respondents strongly supported the ability to register activities or entities (85%), with comments focussing on it improving accountability.

The strongest support was for Animal Ethics Committees needing to be both registered and have a nominated person (92%). Though some respondents were not supportive of animals being used in research, comments supported registration because it will enable more oversight of animals used for scientific activities.

As with the comments for licences, there were concerns that the responsible person for a registered activity or entity can potentially be held responsible for another person's wrongdoing.

Examples of feedback received

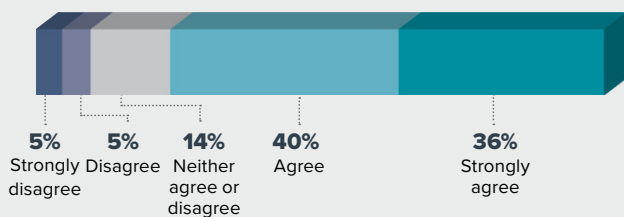
“AECs need to enforce reporting of the outcomes of research and management of all animals in the project.”

“The registering of Animal Ethics Committees will ensure greater transparency and accountability.”



We asked

Do you think the ability to create permits is appropriate?



The Bill includes a broader power to create and issue permits. No activities currently require permits, but the Bill provides flexibility to require them if necessary.

What we heard

The ability to create permits was supported by 76% of respondents.

Examples of feedback received

“I do like the flexibility within the act to create a permit system without reworking the act as a whole.”

“Permits should not be allocated to activities that cause suffering to animals.”

Further considerations and changes

Section 31 will be redrafted following the consultation process to achieve better clarity for research-based stakeholders in meeting obligations of the Act and the Code.

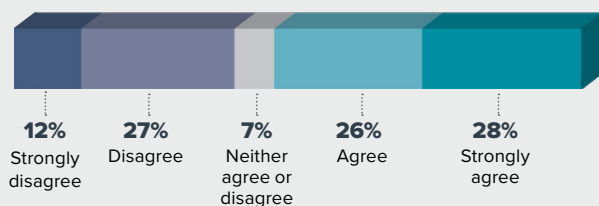
A significant number of comments related to permits for rodeos however these are not specified in the Bill.



Reform area 6 – Increase the ability to administer and enforce the Act

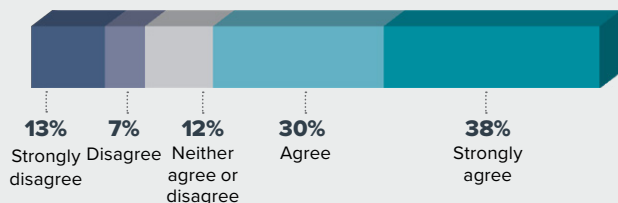
We asked

Do you think the penalties for ill treatment offences are appropriate?



The penalties for ill treatment offences have increased significantly.

Do you think the ability to prohibit items or activities in the future is appropriate?



No changes have been made to the activities or items that are prohibited in the Bill, however, an additional provision is included that would enable additional activities or items to be prohibited through regulation.

What we heard

The significant increases to proposed penalties received widespread support, though 39% of respondents disagreed with the proposed penalties because they are not high enough. Some respondents suggested that mandatory minimum sentencing should be imposed in the courts for ill treatment offences.

Respondents supported the ability to prohibit activities or items in the future (68%). Most comments around prohibition related to the types of activities that could be banned in future and the process that would be used to identify them and consult with the stakeholders.

Examples of feedback received

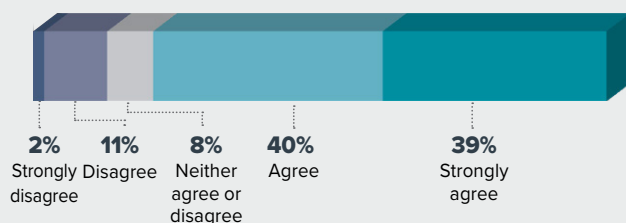
“The penalties for ill-treatment offences are significantly improved.”

“Glad to see penalties have increased but I feel like they could be increased more.”



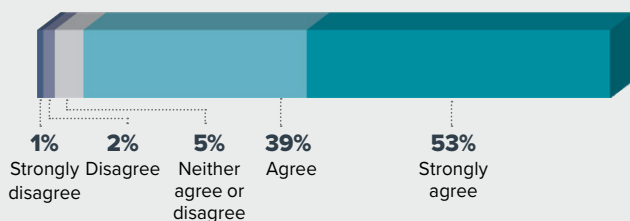
We asked

Do you think that the updated powers for authorised officers are appropriate?



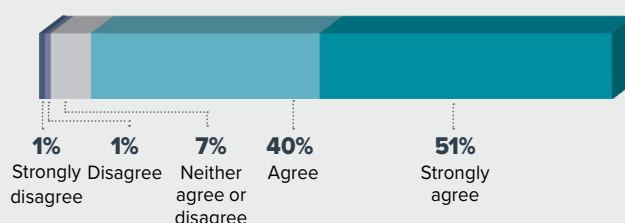
The Bill renames animal welfare inspectors 'authorised officers'. Two new powers will support investigations and enforcement: increased ability to obtain information about the owner of a vehicle and requirement to attend an interview.

Do you think that the ability to issue notices (animal welfare notice and notice to comply) is appropriate?



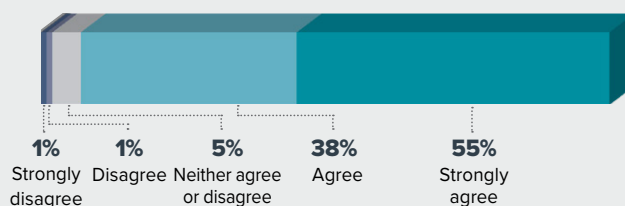
The 'notice to comply' can be issued when an authorised officer believes that a breach of the Act is occurring. It requires a person to take action or stop certain actions.

Do you think the inclusion of enforceable undertakings is appropriate?



Enforceable undertakings are contracts between a person/party and the government, which outline an agreement negotiated between the parties.

Do you think the ability to seek an interim order is appropriate?

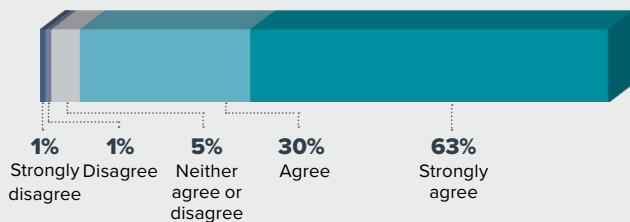


The Bill introduces interim court orders that can require a person to provide required care for an animal, surrender an animal to an authorised officer, forbid a person to acquire or have any other animal for a specified time, or direct a person to surrender an object to the Crown.



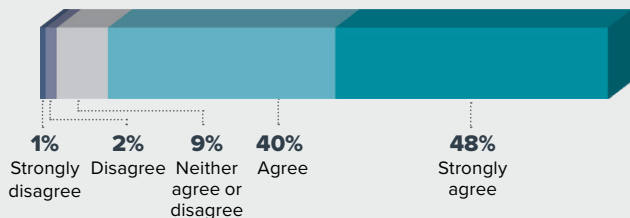
We asked

Do you think it is appropriate to register interstate orders and enforce them in SA?



The Bill provides that prohibition orders made in other states and territories can be recognised and registered in South Australia.

Do you think the ability to issue an order relating to costs is appropriate?



When a person has been found guilty of an offence, the magistrate may make orders, including an order that a party pays for the costs associated with enforcing the Act.

What we heard

There was almost universal support for the ability to issue notices (92%), introduce enforceable undertakings (91%), seek interim orders (93%), enable the courts to make orders relating to costs (88%) and register interstate orders (93%). The accompanying comments demonstrate that stakeholders see these tools as providing more flexibility and nuance and will contribute to achieving better animal welfare outcomes.

Examples of feedback received

“The Interim laws have been long needed! Of all the proposed changes this is the one I am most grateful to see included.”

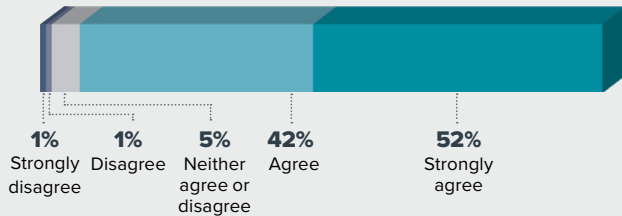
“Law must be harder on those who mistreat animals.”

“What is considered prohibited in other states should also apply to this state.”

“There should be a central register showing all states and territories.”

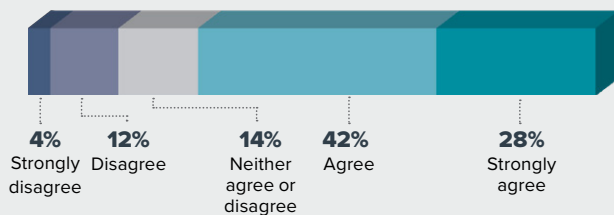
We asked

Do you think separating the seizure provisions for animals and items is appropriate?



The Bill defines when animals or items can be seized, and separates items from animals in terms of how they are managed after seizure. An object can be held indefinitely, whereas the care and welfare of an animal must be the central consideration to determine what happens after it has been seized.

Do you think the ability to deal with seized animals is appropriate?



The Bill establishes that when an animal is seized by an authorised officer, the default position is that the animal is forfeited to the Minister after 30 days, and can be rehomed, sold, or if necessary, euthanised. If the owner wants their animal to be held until the end of a court proceeding, they must apply to the Minister.

What we heard

94% of respondents agreed or strongly agreed that it is appropriate to distinguish items from animals in a seizure situation. 70% agreed or strongly agreed with the proposed provisions to deal with seized animals. All comments were supportive of improving animal welfare outcomes by changing what can be done with seized animals.

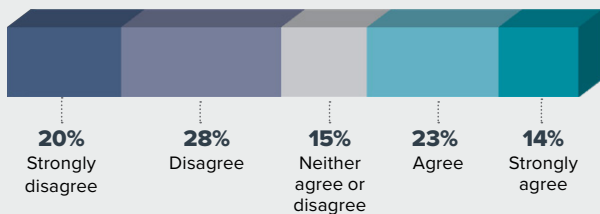
Examples of feedback received

“Having powers to seize the neglected animals is essential in many situations.”

“This is welcomed to prevent animals with severe behavioural issues being housed for lengthy periods at animal welfare organisations awaiting court proceedings and lengthy trials raking up excessive costs that could be far better spent.”

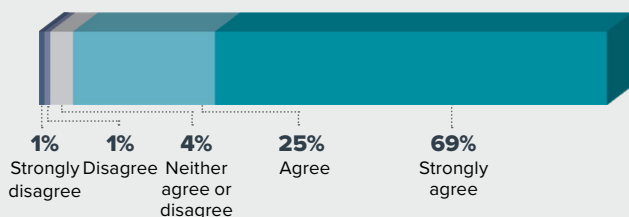
We asked

Do you think the definition of 'reasonable notice' for routine inspections is appropriate?



Routine inspections are undertaken where there is no suspicion of an offence. The Bill retains the current provisions relating to these types of inspections, and clarifies that 'reasonable notice' means at least 24 hours.

Do you think it is appropriate to amend the Sentencing Act 2017 so that the Animal Welfare Act orders could be available for offences involving animals?



Amending the *Sentencing Act 2017* would allow a court to make an order under the *Animal Welfare Act* when a person is sentenced for any offence under any Act that involves animals.

What we heard

While the change to the provision about routine inspections was to clarify that 'reasonable notice' means 'at least 24 hours', there was some confusion among respondents. Routine inspections are undertaken when there is no suspicion of an offence. However, this provision does not prevent authorised officers from immediately accessing properties where there are suspected animal welfare offences occurring. Feedback from key industry stakeholders demonstrated support for the inclusion of a definitive minimum timeframe for notice, ensuring biosecurity requirements or other aspects could be managed for routine inspections.

94% of people agreed or strongly agreed with being able to use *Animal Welfare Act* orders for offences involving animals under other Acts.

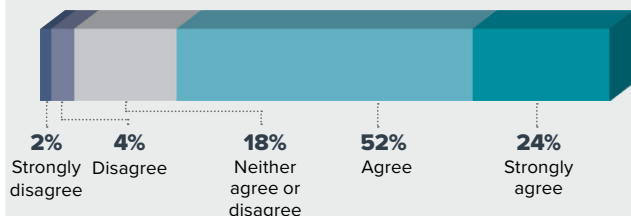
Examples of feedback received

“It is so important for perpetrators to be sentenced effectively for their crimes against animals.”

“Notification is warning and wrongdoers should not be warned that there is about to be an inspection.”

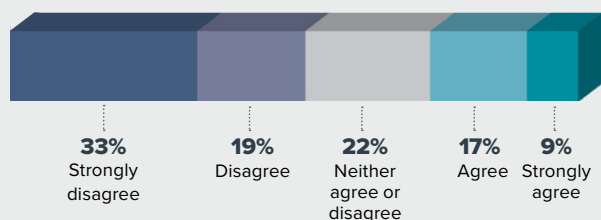
We asked

Do you think the system of reviews of decisions is appropriate?



The Bill provides for Ministerial review and review by SACAT. The Bill outlines the process for applying for a review and the timelines.

Do you think it is appropriate for the Minister to be able to grant exemptions?



The exemption power enables the Minister to exempt persons or classes of persons from the Act or specified provisions of the Act.

What we heard

Respondents were supportive of a mechanism to review decisions of authorised officers and Ministerial decisions (76%).

Ministerial exemptions attracted criticism as being too broad as currently drafted, though 28% of respondents agreed that exemptions are needed in certain circumstances.

Examples of feedback received

“Minister should be able to review, that seems logical.”

“Seizures are not undertaken lightly, so I agree with the shorter timeframe to appeal/review decisions.”

“The Minister should not be able to make any exemptions to the Act.”

“Ministerial exemption may be necessary in an infectious animal disease emergency or other emergencies.”

“Any exemptions should be subject to rigorous review and oversight to ensure they are granted fairly and transparently.”

Further considerations and changes

The exemptions section will be redrafted to ensure there are checks and balances in place.

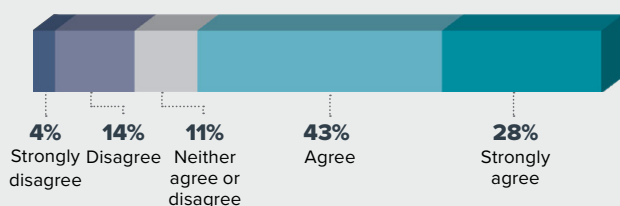
The timeline for reviews by the Minister or SACAT will be clarified.



Reform area 7 – Contemporise government and administrative provisions for the Animal Welfare Advisory Committee

We asked

Do you think the skills-based composition of AWAC is appropriate?



The Bill updates the membership requirements for the Animal Welfare Advisory Committee (AWAC) to include appropriate skills, qualifications and experience, rather than nominations from certain organisations or sectors. This shift enables the committee to be more broadly representative and may open the opportunity for individuals to apply to be on the committee.

What we heard

Respondents strongly supported a skills-based composition of AWAC (71%). Concerns were raised about the balance of the committee, minimum committee size requirements, and the specific naming of participating organisations.

Examples of feedback received

“The membership must have a balance of animal welfare experts, industry representatives, and policy advisers.”

“...all of the experience, skills and qualifications listed are crucial to AWAC carrying out its functions...”

Further consideration and changes

The function and operation of AWAC will be clarified in the regulations, and further inclusion of the sectors and balance of the committee will be added to the Bill.

Miscellaneous

We asked

Do you agree with the inclusion of mandatory reporting for the greyhound industry?

Response	Percentage
Strongly Disagree	1%
Neither agree or disagree	1%
Agree	20%
Strongly agree	76%

As a result of recommendations adopted from the *Independent Inquiry into the governance of the greyhound racing industry*, the Bill creates a requirement for employees in the greyhound racing industry to report suspected animal welfare breaches to the Minister.

Do you agree with the introduction of an Animal Welfare Fund?

Response	Percentage
Strongly Disagree	2%
Neither agree or disagree	2%
Agree	34%
Strongly agree	57%

The Bill establishes an Animal Welfare Fund. The fund will collect any fees paid for licences, permits and registrations or any financial penalties and can be spent on activities or purposes that are consistent with the principles and objects of the Act.

What we heard

An overwhelming 96% of respondents were supportive of mandatory reporting in the greyhound industry. Comments emphasised the need to improve regulation of the industry, with others seeking a ban on greyhound racing.

There was also very strong support for the introduction of an Animal Welfare Fund (91%). Comments related to how the fund will be spent and decisions on how to allocate funds.

Examples of feedback received

- “Greyhound trainers should have stronger penalties for breaches.”
- “There needs to be greater regulation and harsher penalties for the animal racing industry across all sectors.”
- “It’s good to put the funds back into animal welfare projects.”
- “There should be full and accessible transparency around recipients of this fund.”
- “Moneys received under the Act should be used principally for providing care including rehabilitation and re-homing.”

Further consideration and changes

The requirement to report in the greyhound industry will be expanded to include contractors and volunteers as they are a significant part of the industry’s workforce.

The Bill will be amended to clarify that any monies raised in its application and enforcement will be directed to the Animal Welfare Fund.

Other feedback

What we heard

44% of survey respondents added 'other feedback'.

Comments included appreciation that a review is being undertaken and that the draft Bill provides improvements to the current Act.

Other frequently made comments included concerns about:

- greyhound and horse racing industries and the use of animals for entertainment
- intensive piggeries and poultry
- livestock housing and transport
- bow hunting and hunting of native birds
- live export.

The specifics of these issues are beyond the scope of the Bill but community feedback is always valuable. The views expressed through the survey will be noted for future use in other legislation or when policies are developed about any of the issues raised.







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