



THE LAW SOCIETY
OF NEW SOUTH WALES

Our ref: EPD:RHlb:1834008

25 March 2020

Office of Local Government
Impounding Act Review
Locked Bag 3015
Nowra NSW 2541

Dear Sir/Madam,

Review of the Impounding Act 1993

The Law Society of NSW appreciates the opportunity to comment on the 'Review of the Impounding Act 1993 Discussion Paper'. Our Environmental Planning and Development Committee contributed to this submission.

Our comments are confined to the part of the Discussion Paper called Section Two-Operational Directions and to specific provisions of the *Impounding Act 1993* ("Act").

Consultation questions 3 and 11: Definition of "animal"

The current definition of "animal" in the Dictionary to the Act identifies those domesticated and farm animals that may have comprised the majority of the abandoned or unattended animals brought to the attention of impounding authorities in the past. We agree that this definition could be expanded to include other, now more common domesticated and farm animals, including, for example, llamas, alpacas, emus and ostriches. We consider that the definitions of "animal" which "includes aquatic and terrestrial animals" and "stock" which "means cattle, horses, sheep, goats, camels, alpacas, llamas, pigs, deer, ostriches, emus or ...any other kind of animal declared by the regulations to be stock.." as set out in the Dictionary to the *Local Land Services Act 2013*, also provide a useful precedent.

Consultation question 3: Impounding of animals

The first paragraph on page 12 of the Discussion Paper states that an impounded animal must be taken by an impounding authority to the nearest pound "owned or operated" by the impounding authority. But sections 11 and 17 of the Act allow impounded animals or articles to be delivered to "the nearest pound operated or **used** by the authority". The legislation should retain this option as not every council, for example, owns or operates a pound; and that may also be the case for other impounding authorities.

Consultation questions 4.7- 4.9: Delivery of impounded articles to a pound

In some cases it may be difficult or impractical for an authority, including a council, to deliver an impounded article to a "pound" and there should be an option for the impounding authority to take an impounded article to, for example, a works depot for a limited period of time.

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Consultation questions 4.4 and 12: Impounding of boat trailers

Section 15A was incorporated into the Act in 2015 to deal specifically with boat trailers which we understand remain a problem. We suggest that consideration be given to extending the provisions regarding boat trailers to all forms of trailers and non-powered vehicles.

Consultation question 11: Definition of “amenity”

The Discussion Paper states on page 29 that the term “amenity” is difficult to define. While we acknowledge that this is so, we suggest that there may be some assistance given by other legislative definitions or relevant judicial discussions of the term along the lines of “the qualities or conditions of an area or locality that contribute to its pleasantness, harmony and better enjoyment”.¹

If you have any questions about this submission, please contact Liza Booth, Principal Policy Lawyer, at liza.booth@lawsociety.com.au or on (02) 9926 0202.

Yours sincerely,



Richard Harvey
President

¹ See for example, the discussion of the quoted legislative definition in *Claude Neon Ltd v City of West Torrens and Claude Neon Ltd v City of Woodville* (1982) 49 LGRA 31 at 43.