



**Animal Defenders Office**  
*Using the law to protect animals*

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The Animal Defenders Office is accredited by Community Legal Centres Australia Inc.

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The General Manager  
PO Box 99  
Moruya NSW 2537  
**By email:** [council@esc.nsw.gov.au](mailto:council@esc.nsw.gov.au)

Dear Sir / Madam

**Re: Council's notice of intention to grant a licence for Moruya rodeo**

Thank you for the opportunity to make submissions to Council regarding Council's proposed intention to grant a licence for rodeo events, including a five-year licence to the Rodeo Association of Moruya within Lot 1 DP 1141031 Crown Reserve 580020, Moruya Showground ("the proposal").<sup>1</sup>

*About the Animal Defenders Office*

The Animal Defenders Office ("ADO") is a nationally accredited community legal centre that specialises in animal law. The ADO is run by volunteer legal practitioners, academics, law graduates and students. The ADO is a member of Community Legal Centres NSW Inc., the peak body representing community legal centres in NSW.

Further information about the ADO can be found at [www.ado.org.au](http://www.ado.org.au).

The ADO does not support the proposal because animal welfare cannot be sufficiently safeguarded under the current regulatory framework regarding rodeos in NSW. This view is based on the following submissions.

*Rodeos and the NSW regulatory framework*

The *Prevention of Cruelty to Animals Act 1979* (NSW) ("POCTAA") contains specific animal cruelty offences for 'animal baiting' (s 18), bull fighting (s 18A), and certain animal-catching activities where an animal is released from confinement to be chased, caught or confined (s 20).

Under these provisions it would be an animal cruelty offence to carry out the standard animal events in rodeos. These events can be carried out lawfully, however, because the *Prevention of Cruelty to Animals Regulation 2012* (NSW) ("POCTAR") specifically **exempts** rodeos from the offence provisions in the Act (reg 36).

Rodeo events are therefore what is called '**legalised cruelty**'. It is a matter of serious ethical concern that activities that are banned under NSW animal welfare laws are exempted from those laws for mere entertainment purposes. The standard legal test for determining whether harm inflicted on an animal is unlawful is if the harm is 'reasonable, justified or necessary'. The ADO submits that it is not reasonable, justified or necessary to carry out these activities. Councillors should be in no doubt that if it were not for this blanket exemption under NSW's animal welfare laws, the harm inflicted on animals during rodeos would amount to a criminal offence of animal cruelty.

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<sup>1</sup> *Public notice: Licence for Moruya Rodeo*, ref: Land ID 34400, <https://www.esc.nsw.gov.au/council/have-your-say/public-exhibition/other/public-notice-licence-for-moruya-rodeo>.

### *The NSW rodeo Code of Practice*

The exemption of rodeos from animal cruelty prohibitions applies provided that the rodeo is conducted in accordance with the 'relevant Code of Practice' (POCTAR reg 36(3)).

The relevant Code of Practice is the 'NSW Code of Practice for animals used in rodeo events' ("the Code").<sup>2</sup>

The ADO notes that Council intends to add a condition to any future licence for the rodeo requiring compliance 'with NSW Department of Primary Industry's Code of Practice for animals used in rodeo events'.<sup>3</sup>

The ADO submits that the proposed condition requiring compliance with the Code of Practice is not necessary, will create uncertainty, and will do nothing to minimise harm to animals.

The proposed licence condition is not necessary because the exemption under NSW animal welfare law is already conditional on compliance with the Code.<sup>4</sup>

If it implements the proposed licence condition, Council would need to clarify whether the condition is meant to override the provisions under POCTAR which specify when the conditional exemption applies.<sup>5</sup> Failure to do this would create uncertainty regarding the legal effect of the licence condition.

The proposed licence condition would do nothing to reduce the harm inflicted on animals used for this form of entertainment because the Code is not fit for purpose. This view is based on the following factors.

For the purposes of the exemption for rodeos from animal cruelty offences, POCTAR defines 'relevant Code of Practice' as:

...the document entitled *Code of Practice for the Welfare of Animals Used in Rodeo Events* that was approved on 30 April 1988 by the Animal Welfare Advisory Council and is published on the Department's website.<sup>6</sup>

As is evident from the definition, the Code was **approved almost 35 years ago**. The Code itself states that it is 'based on knowledge available at the time of publication and **should be reviewed at intervals of no longer than 2 years to maintain the highest possible standards**.'<sup>7</sup> The ADO has been unable to find any reference to a review or updates since the Code was approved in 1988. Therefore, the Code is out of date both objectively (being approved almost 35 years ago) and according to its own terms (not having been reviewed at 2-yearly intervals [or ever]). Requiring compliance with an out-of-date Code will not safeguard animal welfare.

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<sup>2</sup> <https://www.dpi.nsw.gov.au/animals-and-livestock/animal-welfare/animal-care-and-welfare/livestock/livestock-files/nsw-code-of-practice-for-animals-used-in-rodeo-events>.

<sup>3</sup> *Report to Ordinary Meeting of Eurobodalla Shire Council Held on Tuesday 22 November 2022*, p58, [https://www.esc.nsw.gov.au/\\_data/assets/pdf\\_file/0008/225881/Agenda-Public.pdf](https://www.esc.nsw.gov.au/_data/assets/pdf_file/0008/225881/Agenda-Public.pdf).

<sup>4</sup> POCTAR reg 36 'Exemptions for rodeos from prohibitions under sections 18 (1), 18A and 20 of Act', subs. (3): An exemption under this clause is subject to the condition that the rodeo concerned is at all times conducted in accordance with the relevant Code of Practice.

<sup>5</sup> POCTAR reg 36(4): '...a person does not lose the benefit of the exemption because of a failure to comply with the relevant Code of Practice if the failure occurs despite the person having done all that the person could reasonably be expected to have done to comply with that Code.'

<sup>6</sup> POCTAR reg 36(5).

<sup>7</sup> The Code, 1.1, emphasis added.

## *Calf roping*

The standard rodeo event known as ‘calf roping’ is the most controversial event from an animal welfare perspective.<sup>8</sup> The event is also known as ‘rope and tie’ and involves ‘a calf as young as four months being chased by a rider, lassoed [round the neck], jerked off their feet and often crashing to the ground.’<sup>9</sup> Catching the calves around the neck with the rope can lead to the calves being ‘jerked down’, a part of the event which the Code purports to prohibit:

4.21 Jerking down refers to the 180° flipping over of a calf onto its back which may occur when it is roped. No animal may be jerked down, and a contestant who jerks down an animal will be disqualified.

The rodeo industry is aware of the controversial nature of the event. Even the Code states:

Rodeo associations are to ensure that arrangements are made for the **phasing out by 20 June 1989, of calf-roping in a form which permits the abrupt stopping of calves when roped.**<sup>10</sup>

The ADO is not aware of any formal phasing out of calf-roping in NSW by or after 20 June 1989. Instead, the industry has focussed its attention on ‘the abrupt stopping of calves when roped’. For example, the Australian Bushmen’s Campdraft and Rodeo Association’s Rule Book states that:

Approved roping devices must be used in rope and tie to avoid abrupt stopping of calves. If a “jerk down” occurs, that contestant involved will be fined minimum of \$50 and disqualified. (A jerk down will be designated as a calf coming vertically over backwards with all four feet leaving the ground simultaneously, irrespective of how the calf lands.)<sup>11</sup>

It is not clear whether any contestant in a NSW rodeo has been fined and/or disqualified for ‘jerking down’ a calf during a rope and tie event. In Budget Estimates in 2019 the NSW Department of Primary Industries confirmed it does not collect information on occurrences of fined and disqualified contestants for jerk downs from rodeo associations.<sup>12</sup> Without this kind of information, compliance with the purported prohibition on jerking down, and industry claims about the effectiveness of the prohibition in reducing negative animal welfare consequences, are impossible to verify.

### *Industry animal welfare claims—approved roping devices*

Even around the time the Code was approved (1988), experts doubted that ‘approved roping devices’ did anything to eliminate or reduce the negative animal welfare consequences of calf roping. In 1991 the Australian Senate Select Committee on Animal Welfare published a report on

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<sup>8</sup> RSPCA Australia, ‘New study shows rodeo calf roping frightening and cruel from start to finish,’ 20 Jan 2023, <https://www.rspca.org.au/media-centre/news/2023/new-study-shows-rodeo-calf-roping-frightening-and-cruel-start-finish>.

<sup>9</sup> RSPCA Australia, ‘Calf roping offers unacceptable cruelty in the name of entertainment’, 16 Dec 2021, <https://www.rspca.org.au/media-centre/news/2021/calf-roping-offers-unacceptable-cruelty-name-entertainment>.

<sup>10</sup> The Code, 4.23; emphasis added.

<sup>11</sup> The Australian Bushmen’s Campdraft and Rodeo Association (“ABCRA”), *ABCRA Rule Book*, 1 December 2015, updated Dec 2022, AWC.9. Rope and Tie, p13; <https://www.abcra.com.au/rule-book>.

<sup>12</sup> Budget Estimates 2019-20, Thursday 31 October 2019, Portfolio Committee No. 4 – Industry, Agriculture and Western New South Wales, Questions Taken on Notice, The Hon. Adam Marshall MP, p4, <https://www.parliament.nsw.gov.au/lcdocs/other/12870/answers%20to%20questions%20-%20Agriculture%20and%20Western%20New%20South%20Wales%20-%20Marshall%20-%20received%2026%20November%202019.pdf>.

animal welfare in competitive events including rodeos.<sup>13</sup> Expert witnesses expressed reservations about the capacity of roping devices to eliminate or diminish the whiplash effect of roping on calves:

...this is a speed event. The calf is released ... and it takes off as fast as it can go, as calves do, and it is brought to a sudden stop. Whether you reduce that deceleration from BMW-type brakes to Holden-type brakes is inconsequential. The cruelty is still there.<sup>14</sup>

The Australian Senate Committee concluded that:

Although roping devices may reduce abrupt stopping and jerking down of calves, the Committee is not convinced that these devices eliminate problems associated with roping of calves.<sup>15</sup>

More recently, experts have questioned whether contemporary devices, such as the Ropersmate, reduce negative welfare impact on calves. The ADO is unaware of any independent scientific research that has been carried out to determine whether devices such as Ropersmate reduce the harm inflicted on animals during calf-roping. Such research would require calves being repeatedly subjected to the roping, grounding and tying inflicted on bolting calves, followed by rigorous clinical evaluation and internal medical imagery, and comparing the external and internal injuries with and without the roping device. Without such research, little credence can be given to industry claims that the devices reduce negative welfare outcomes.

In the meantime, it is clear that abrupt stopping and jerking down of calves is still common in calf roping events.<sup>16</sup> The RSPCA continues to call for these practices to be banned.<sup>17</sup> There can be little doubt that these practices would occur in any Moruya rodeo licensed to take place in the Eurobodalla Shire on Council land.

#### *Other harmful practices*

Other harmful practices that occur during rodeos include prodding, flank strap pulling, and tail-twisting while animals wait to be released into the arena for an event. The Code allows the use of electric prods (3.11) and flank straps (4.26). It is silent about tail-twisting. These practices are used to agitate the animals immediately before being released.

If rodeos are permitted to take place on Council land in the Eurobodalla Shire, it is highly likely that these harmful practices will occur as part of the rodeos and as sanctioned under the 1988 Code.

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<sup>13</sup> Parliament of the Commonwealth of Australia, *Equine Welfare in Competitive Events Other Than Racing. Report by the Senate Select Committee on Animal Welfare*, August 1991, [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Significant\\_Reports/animalwelfarectte/welfarecompetitiveevents/index](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Significant_Reports/animalwelfarectte/welfarecompetitiveevents/index).

<sup>14</sup> Dr Auty, ANZFAS Ibid, 3.94, p57. The Report states that the witness from RSPCA (NSW) 'expressed a similar view', 3.95, p57.

<sup>15</sup> Ibid, 3.105, p59.

<sup>16</sup> See for example: RSPCA Australia, 'Terrifying and cruel: more evidence for a ban on calf roping', 3 May 2022, <https://www.rspca.org.au/media-centre/news/2022/terrifying-and-cruel-more-evidence-ban-calf-roping>. See also <https://www.al.org.au/rodeos>; <https://www.alq.org.au/rodeos>. ADO volunteers have attended several rodeos in NSW and jerking down occurred at every rodeo.

<sup>17</sup> RSPCA Australia, 'New study shows rodeo calf roping frightening and cruel from start to finish', 20 Jan 2023, <https://www.rspca.org.au/media-centre/news/2023/new-study-shows-rodeo-calf-roping-frightening-and-cruel-start-finish>. D Cloughton, 'Rodeo sport of calf roping causes stress, fear and should be banned: RSPCA', *ABC Rural*, 14 Jan 2022, <https://www.abc.net.au/news/rural/2022-01-14/rspca-call-for-calf-roping-ban-a-rodeos/100753936>.

### *Rodeos banned due to inherent welfare concerns*

Rodeos are prohibited in the Australian Capital Territory on animal welfare grounds.<sup>18</sup> According to the prohibition, a person commits a criminal offence if the person conducts or takes part in a rodeo. The offence is punishable by imprisonment for one year or a penalty of up to \$16,000, or both. This blanket ban demonstrates the seriousness of the animal welfare concerns associated with rodeos.

### *Alleged benefits of the rodeo*

Council's report on the rodeo licence discusses the alleged benefits of allowing the Moruya Rodeo to take place in the Shire.<sup>19</sup> The report refers to potential benefits in terms of the rodeo's social impact, economic development employment potential, and financial benefit. Yet nothing about these alleged benefits is unique to rodeos. The ADO submits that other forms of entertainment (not involving cruel animal practices) could attract tourists, provide an activity for local residents, and boost the local economy.

### *Conclusion*

The ADO submits that the rodeo licence should not be granted. The animal welfare concerns inherent in rodeos cannot be mitigated. Compliance with the Code approved in 1998 would do nothing to reduce negative animal welfare outcomes as it is out of date and fundamentally flawed. The ADO submits that Council should instead ban rodeos from taking place on Council land.

Yours faithfully



### **Tara Ward**

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<sup>18</sup> *Animal Welfare Act 1992 (ACT) s 18(1).*

<sup>19</sup> *Report to Ordinary Meeting of Eurobodalla Shire Council Held on Tuesday 22 November 2022, p60, [https://www.esc.nsw.gov.au/\\_data/assets/pdf\\_file/0008/225881/Agenda-Public.pdf](https://www.esc.nsw.gov.au/_data/assets/pdf_file/0008/225881/Agenda-Public.pdf).*