



# **Animal Care and Protection Amendment Bill 2022**

**Report No. 23, 57th Parliament**

**State Development and Regional Industries Committee**

**July 2022**

## **State Development and Regional Industries Committee**

<b>Chair</b>	Mr Chris Whiting MP, Member for Bancroft
<b>Deputy Chair</b>	Mr Jim McDonald MP, Member for Lockyer
<b>Members</b>	Mr Michael Hart MP, Member for Burleigh Mr Robbie Katter MP, Member for Traeger Mr Jim Madden MP, Member for Ipswich West Mr Tom Smith MP, Member for Bundaberg
<b>Telephone</b>	+61 7 3553 6662
<b>Email</b>	<a href="mailto:sdric@parliament.qld.gov.au">sdric@parliament.qld.gov.au</a>
<b>Technical Scrutiny Secretariat</b>	+61 7 3553 6601
<b>Committee webpage</b>	<a href="http://www.parliament.qld.gov.au/SDRIC">www.parliament.qld.gov.au/SDRIC</a>

### **Acknowledgements**

The committee acknowledges the assistance provided by officials from the Department of Agriculture and Fisheries and the Queensland Audit Office.

The committee also acknowledges the many individuals and organisations who provided submissions to the inquiry or appeared at public hearings.

All web address references are current at the time of publishing.

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## Chair's foreword

This report presents a summary of the State Development and Regional Industries Committee's examination of the Animal Care and Protection Amendment Bill 2022.

The committee has recommended that the Bill be passed.

The primary objective of the Bill is to modernise animal welfare laws in Queensland to reflect changes in contemporary science and community expectations. The Bill achieves this through various amendments including strengthening enforcement powers to address risks to animal welfare, prohibiting certain inhumane practices and enabling the development of an accreditation scheme which will allow non-veterinarians to perform certain procedures on cattle.

The Bill also facilitates the ethical use of animals for scientific purposes and implements recommendations of the Martin Inquiry which considered the welfare of retired race horses.

Of particular note is the proposed introduction of a new 'aggravated' breach of duty of care offence, in situations that result in the death or prolonged suffering of an animal. The offence attracts a significant penalty and undoubtedly reflects the community's attitude and expectations towards animal cruelty.

The Bill also implements recommendations of the Queensland Audit Office to strengthen oversight of the RSPCA Queensland in providing inspectorate services for the state. This is a significant step towards enhancing accountability and public confidence in the delivery of these important services. The committee has recommended that the Department of Agriculture and Fisheries continue implement Queensland Audit Office recommendations in full and actively monitor the delivery of services by the RSPCA Queensland. This committee will maintain a watching brief on the implementation of these recommendations.

The amendments proposed by the Bill are based on a comprehensive review of animal welfare laws and engagement with a wide range of stakeholders. Similar interest was shown in the committee's inquiry with almost 1,500 submitters expressing their views.

The committee acknowledges that opinions were not always in agreement, and no more so than for the proposed ban on collars which incorporate protrusions designed to puncture or bruise the skin of an animal.

I have considered the evidence carefully, including advice that the Australian Government has taken steps to ban the import of prong collars, and the comprehensive evidence base supporting the proposal. The committee has therefore recommended that the Department of Agriculture and Fisheries continue to work with the Australian Government in this area.

I am comfortable that the Department of Agriculture and Fisheries has conducted a comprehensive consultation process for the breadth of this Bill.

On behalf of the committee I thank the many organisations and individuals who participated in the inquiry for their valuable contributions. I also thank my fellow committee colleagues for their collaboration and parliamentary service staff who supported the inquiry.

I commend this report to the House.



**Chris Whiting MP**

Chair

## Recommendations

### Recommendation 1

8

The committee recommends the Animal Care and Protection Amendment Bill 2022 be passed.

### Recommendation 2

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The committee recommends that the Department of Agriculture and Fisheries continue to work with colleagues in the Australian Government, as appropriate, in relation to the prohibition on the import of dog collars incorporating protrusions designed to puncture or bruise an animal's skin.

### Recommendation 3

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The committee recommends that the Department of Agriculture and Fisheries continue to implement Queensland Audit Office recommendations in full, and actively monitor and assess the performance of RSPCA Queensland in meeting its obligations under any Activity Agreement for delivering inspectorate services for the state.

## 1 Introduction

### 1.1 The Animal Care and Protection Amendment Bill 2022

The Animal Care and Protection Amendment Bill 2022 (Bill) was introduced into the Legislative Assembly by the Hon Mark Furner MP, Minister for Agricultural Industry Development and Fisheries and Minister for Rural Communities on 12 May 2022. The Bill was referred to the committee for examination and report by 1 July 2022.

#### 1.1.1 Purpose and policy objectives

The *Animal Care and Protection Act 2001* (the Animal Care and Protection Act) is the principle legislative framework for animal welfare in the state and is administered by Biosecurity Queensland.

There have been significant advances in animal welfare science since the Act was introduced. This has led to improved animal husbandry practices and reduced risks to the welfare of animals generally. Greater awareness of animal welfare issues has influenced community expectations for more humane care of animals including livestock.<sup>1</sup>

The main objective of the Bill is to modernise animal welfare laws to reflect changes in contemporary science and community expectations. To achieve this, the Bill proposes a series of amendments to the Animal Care and Protection Act to:

- facilitate the ethical use of animals for scientific purposes while ensuring that animal welfare is not compromised
- strengthen enforcement powers to address risks to animal welfare by clarifying or prescribing new offences
- prohibit inhumane practices, including the use of CSSP on pest animals, firing the legs of a horse or a dog, and using or possessing a prong collar
- provide an approved accreditation scheme to enable a person to gain accreditation to perform certain procedures on cattle (spaying and pregnancy testing)
- clarify the law and remove any redundant provisions.<sup>2</sup>

The Bill also implements recommendations of the Inquiry into animal cruelty in the management of retired Thoroughbred and Standardbred horses in Queensland (the Martin Inquiry) through amendment of the Animal Care and Protection Act and the *Racing Integrity Act 2016* (Racing Integrity Act). These amendments relate to:

- the monitoring of livestock slaughter facilities by the Department of Agriculture and Fisheries
- safeguards to protect the welfare of retired racehorses by the Queensland Racing Integrity Commission (QRIC).<sup>3</sup>

The Bill also implements some of the recommendations of the 2021 Queensland Audit Office (QAO) report, *Regulating animal welfare services*. The recommendations are aimed at strengthening the legislative framework and the role of the Department of Agriculture and Fisheries in overseeing the functions of the RSPCA Queensland and managing the performance of RSPCA inspectors.<sup>4</sup>

Each of these objectives, together with stakeholder feedback, is discussed in the following chapters.

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<sup>1</sup> Explanatory notes, p 1.

<sup>2</sup> Explanatory notes, p 2.

<sup>3</sup> Explanatory notes, p 4.

<sup>4</sup> Explanatory notes, p 5.



## 1.2 Committee inquiry process

The committee invited stakeholders and subscribers to make written submissions on the Bill on 13 May 2022. Almost 1,500 submissions were received from a broad range of stakeholders. See **Appendix A**.

The committee received a briefing about the Bill from the Department of Agriculture and Fisheries (DAF) on 23 May 2022. DAF also provided several written responses in relation to issues raised in submissions, and other committee requests. A public briefing on the QAO report and recommendations was held with the Auditor-General on 20 June 2022. See **Appendix B**.

The committee conducted public hearings in Brisbane on 14 and 15 June 2022. The committee heard from stakeholders spanning the agricultural, veterinary, animal welfare and enforcement sectors. See **Appendix C**.

Inquiry documents including submissions, transcripts, correspondence, tabled papers and answers to questions on notice are available on the inquiry website.<sup>5</sup>

## 1.3 Government consultation on the Bill

The explanatory notes provide a detailed description of the consultation process undertaken for the Bill and 2020 Review of the Animal Care and Protection Act, which was central to informing amendments proposed in the Bill.

Community engagement activities included the release of the *Review of the Animal Care and Protection Act Discussion Paper* (the Discussion Paper) in April 2021 for public consultation. The Discussion Paper sought views on the legislative framework, and some high-level proposals for amendment/introduction.<sup>6</sup>

The explanatory notes confirm that there was significant interest in the review, with a total of 2,353 responses received. In response to the release of the Discussion Paper and stakeholder meetings, a total of 1,439 survey responses and 914 written submissions were received from organisations and individuals.<sup>7</sup>

The committee was provided with a list of organisations that provided submissions and who were invited to make a submission to the DAF review. This list, together with the explanatory notes highlight that feedback was received from across the state and dealt with various issues including: veterinary science, domestic/companion animals, agriculture, animals in sport, recreation and entertainment, science and research, teaching, wildlife and pest animals.<sup>8</sup>

The outcomes of the consultation were set out in an outcomes report which is published on the DAF website.<sup>9</sup>

DAF also established a Review Reference Group with representation from RSPCA Queensland, Animals Australia, Queensland Farmers' Federation, AgForce, the Australian Veterinary Association (Queensland Branch), the Animal Welfare Advisory Board, the Queensland Racing Integrity Commission, and the Horse Biosecurity Market Access Liaison Group.<sup>10</sup>

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<sup>5</sup> See: <https://www.parliament.qld.gov.au/Work-of-Committees/Committees/Committee-Details?cid=172&id=4163>

<sup>6</sup> Explanatory notes, p 34.

<sup>7</sup> Explanatory notes, p 34.

<sup>8</sup> Explanatory notes, p 34.

<sup>9</sup> Department of Agriculture and Fisheries, correspondence, 20 June 2022.

<sup>10</sup> Explanatory notes, p 35.

The Reference Group met several times between May 2021 and February 2022 and was provided with status updates and information about proposals and areas where further consultation with specific stakeholders was considered desirable.<sup>11</sup>

Further consultation was undertaken with several organisations. A list is provided in the explanatory notes. The meetings provided an overview of proposed amendments, and provided an opportunity to ask questions and raise specific concerns.<sup>12</sup>

Some stakeholders from the dog training industry advised the committee that consultation on the banning of prong collars had been inadequate.<sup>13</sup> This is discussed further in chapter 4.

The Martin Inquiry recommendations were subject to a separate consultation process conducted as part of that inquiry. Consultation was targeted to those with a direct interest in the management of retired racing horses and the operational facilities accepting horses for slaughter.<sup>14</sup> Other individuals and organisations who offered to contribute to the Martin Inquiry, were also able to make submissions. A total of 21 stakeholder interviews were conducted and 29 submissions were received.<sup>15</sup>

Regarding the QAO report, DAF advised that it has consulted and is working with the RSPCA Queensland to implement each of the recommendations.<sup>16</sup> DAF has provided the committee with a comprehensive response to demonstrate how each of the recommendations will be implemented.<sup>17</sup>

#### **1.4 Should the Bill be passed?**

Standing Order 132(1) requires the committee to determine whether or not to recommend that the Bill be passed.

##### **Recommendation 1**

The committee recommends the Animal Care and Protection Amendment Bill 2022 be passed.

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<sup>11</sup> Explanatory notes, p 35.

<sup>12</sup> Explanatory notes, p 35.

<sup>13</sup> Submissions 46, 630 and 853.

<sup>14</sup> Explanatory notes, p 36.

<sup>15</sup> Explanatory notes, p 36.

<sup>16</sup> Explanatory notes, p 36.

<sup>17</sup> A copy of the response is published on the inquiry webpage at: <https://www.parliament.qld.gov.au/Work-of-Committees/Committees/Committee-Details?cid=172&id=4163>

## 2 Facilitating the ethical use of animals for scientific purposes

### 2.1 Overview

Clauses 17 -21 of the Bill amend the *Animal Care and Protection Act 2001* (Animal Care and Protection Act) and *Veterinary Surgeons Act 1936* (Veterinary Surgeons Act) to better facilitate the ethical use of animals for scientific purposes while ensuring that animal welfare is not compromised.

Specifically, the Bill proposes to:

- allow persons other than veterinary surgeons to perform acts of veterinary science on animals used for scientific use purposes, provided they are performed in accordance with the Australian Code for the Care and Use of Animals for Scientific Purposes (Scientific Use Code)
- enable the Director-General of the Department of Agriculture and Fisheries (DAF) to decide the term of scientific use registration up to a maximum of 4 years, rather than the current fixed 3-year term
- align the definition of ‘scientific purposes’ in the Animal Care and Protection Act with the Scientific Use Code
- require a scientific use registration holder to notify the Director-General of any changes to the information provided in their registration application
- clarify that the scientific use register can be inspected by the public at the DAF’s head office.<sup>18</sup>

Key amendments, including stakeholder feedback, are discussed further below.

### 2.2 Persons other than vets to perform acts of veterinary science

The Bill amends the Veterinary Surgeons Act to allow persons other than veterinary surgeons (e.g. researchers) to perform acts of veterinary science (e.g. administer anaesthetics or perform surgical procedures) on animals used for scientific purposes, provided they are performed in accordance with certain conditions.<sup>19</sup>

Conditions include compliance with the Scientific Use Code, which provides a framework and governing principles to guide decisions and actions of those involved in the care and use of animals for scientific purposes. It also describes processes for accountability.<sup>20</sup>

DAF advised that the change will align the legislative framework with most other Australian states and territories.<sup>21</sup>

#### 2.2.1 Needs of research community

DAF advised that the amendment was included in the Bill in response to concerns raised by the research community. DAF informed the committee that the existing regulatory framework makes it an offence for researchers to perform scientific procedures. DAF understood that this could lead to some researchers choosing to relocate to other jurisdictions where such procedures are permitted. DAF advised that ‘this could cause significant detriment to the Queensland scientific community and reduce the State’s ability to undertake cutting edge research’.<sup>22</sup>

<sup>18</sup> Explanatory notes, p 2.

<sup>19</sup> Explanatory notes, p 6.

<sup>20</sup> Australian Government, National Health and Medical Research Council, Australian for the care and use of animals for scientific purposes, 8<sup>th</sup> Edition, (updated 2021).

<sup>21</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 21.

<sup>22</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 22.

The committee received limited feedback from the research sector during the inquiry.

### **2.2.2 Ensuring animal welfare is not compromised**

Several stakeholders suggested amendments to ensure that the welfare of animals was not impacted negatively by the proposal.

The Queensland Farmers' Federation submitted that animal welfare could be compromised if provisions are not made to ensure that operators are competent:

The Scientific Code requires that operators are competent but leaves the assessment of competency undefined. Investigators must merely "ensure that procedures using animals are performed competently".

... Defining appropriate courses for investigators would standardise and limit the potential for adverse events.<sup>23</sup>

In response, DAF advised that it does not consider courses need to be prescribed in the Bill as the Scientific Use Code requires procedures to be performed by persons who are competent or who are under the direct supervision of a person who is competent to perform the procedure.<sup>24</sup>

The Australian Veterinary Association (AVA) expressed some reservations, submitting that it does not support 'a blanket exemption' for researchers. The AVA recommended that there should be a requirement for veterinary staff to directly assess and certify the competence of researchers to perform acts of veterinary science, including anaesthesia, analgesia and surgical procedures.<sup>25</sup>

In response, DAF advised that under the Scientific Use Code, institutions are required to have animal care and use guidelines, which have been developed and approved by the institution's Animal Ethics Committee (AEC). This must include how the competence of people conducting these procedures are assessed and ensured.<sup>26</sup>

Furthermore, institutions are required to have access to veterinary advice and a program of veterinary care, quality management and project design to safeguard animal wellbeing. This could include the appointment of an officer with veterinary qualifications, who is authorised to ensure activities proceed in compliance with the Scientific Use Code and AEC decision.<sup>27</sup>

DAF also advised that a significant number of Queensland-based research institutions have employed veterinarians as Animal Welfare Officers, and can assess the competency of researchers and monitor research staff when performing these procedures.<sup>28</sup>

The National Health and Medical Research Council was largely supportive of the amendments including the conduct of procedures based on competence rather than qualifications such as veterinary qualifications.<sup>29</sup>

### **2.2.3 Opposition to use of animals for scientific purposes**

Several animal welfare organisations and individuals outlined their opposition to the amendment and use of animals for scientific purposes generally.

For example, Animal Welfare League Qld (AWLQ) opposed non-veterinarians undertaking acts of veterinary science. The AWLQ called for legislation 'to require each institution which has animal use

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<sup>23</sup> Queensland Farmers' Federation, submission 1451, p 3.

<sup>24</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 22.

<sup>25</sup> Australian Veterinary Association, submission 1453, p 4.

<sup>26</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 22.

<sup>27</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 22.

<sup>28</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 22.

<sup>29</sup> National Health and Medical Research Council, submission 786, pp 4-6.

registration holders to be required to increase the development of use of replacement technology and reduce animal use with fewer numbers each year'.<sup>30</sup>

The Humane Society International expressed a similar view. The organisation encouraged reductions in animal use in science through robust application of the 3Rs (Replace, Reduce and Refine) to laboratory testing on animals and outlined its support for legislation that would promote the 3Rs.<sup>31</sup>

In response, DAF confirmed that the 3Rs are an integral part of the compulsory Scientific Use Code. DAF advised that it actively encourages institutions, researchers, AEC members and other persons involved in the care and use of animals for scientific purposes to keep abreast of the development of new 3Rs methods and techniques and their possible application to research and teaching.<sup>32</sup>

## 2.3 Scientific use registration

The Bill makes several amendments relating to the scientific use registration process which requires that those intending to use an animal for scientific purposes be registered with Biosecurity Queensland and have each activity or project approved by an Animal Ethics Committee.<sup>33</sup>

The Bill increases the term of registration to a maximum of 4 years to provide more flexibility (particularly for smaller organisations) than the current fixed 3 year term; and to more closely align with the timing of independent external reviews which are conducted every 4 years under the Scientific Use Code. These external reviews are considered by the Director-General when deciding a registration application.<sup>34</sup>

The Bill also amends the Animal Care and Protection Act to amend the definition of 'scientific purposes' to align with the Scientific Use Code.<sup>35</sup>

The National Health and Medical Research Council has been responsible for developing and publishing the Scientific Use Code since 1969 and supported the registration term extension and definition changes, as this brings the legislation closer to the Scientific Use Code. It did not comment on notification of changes or inspection of the register as these are operational matters.<sup>36</sup>

The Bill also clarifies that the Scientific Use Register can be inspected by the public at DAF's head office, rather than any other departmental office not involved in this area.<sup>37</sup> It also introduces a new section to require scientific use registration holders to notify the Director-General within 7 days of a material change from their registration application, or a disqualifying event.<sup>38</sup>

### 2.3.1.1 Committee comment

The committee is satisfied that proposed amendments to facilitate the ethical use of animals for scientific purposes are relevant and appropriate.

The committee acknowledges the views of those who seek additional measures to ensure animal welfare is not compromised, and the views of those who disagree with the use of animals for scientific purposes generally. On balance, the committee is satisfied that the National Scientific Code provides

<sup>30</sup> Animal Welfare League Qld, submission 778, p 2.

<sup>31</sup> Humane Society International, submission 901.

<sup>32</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 23.

<sup>33</sup> <https://www.business.qld.gov.au/industries/farms-fishing-forestry/agriculture/livestock/animal-welfare/animals-science/using-animals/registering>

<sup>34</sup> Explanatory notes, p 6.

<sup>35</sup> Explanatory notes, p 6.

<sup>36</sup> National Health and Medical Research Council, submission 786, pp 3-4.

<sup>37</sup> Explanatory notes, p 6.

<sup>38</sup> Explanatory notes, pp 6-7.

a sufficiently robust framework to ensure the ethical, humane and responsible care of animals used for scientific purposes in Queensland.

The committee is also satisfied that operational changes to the Biosecurity Queensland scientific use registration process are appropriate.

### 3 Changes to enforcement powers

#### 3.1 Overview

Currently, the Animal Care and Protection Act places a legal duty of care on people in charge of animals to meet those animals' needs in an appropriate way. Specially trained Biosecurity Queensland, and RSPCA animal welfare inspectors, or the police, investigate complaints against alleged offences.

The Bill proposes various amendments to the Animal Care and Protection Act to strengthen enforcement powers to reduce risks to the welfare of animals. This includes:

- introducing a new offence of 'aggravated' breach of duty of care with the same maximum penalty of 2,000 penalty units or 3 years imprisonment to that which applies to a cruelty offence
- allowing an inspector to enter a place to provide relief to an animal from adverse weather conditions or another animal that is aggressive
- allowing the chief executive (Director-General, DAF) to give a direction for the disposal, forfeiture, or prohibition on possessing, purchasing, or otherwise acquiring animals to a person who is subject to a decision made under a corresponding interstate law
- clarifying the meaning of 'unreasonable abandonment' to remove any doubt that the person in charge of an animal remains responsible even where another person such as a neighbour, has volunteered to provide the animal with food and/or water
- allowing an inspector to issue an animal welfare direction to a person to whom a compulsory code requirement applies
- requiring a person who has obtained an animal that has undergone a regulated procedure such as tail docking, to obtain and retain the signed veterinary surgeon's certificate stating that the procedure was done in the interests of the animal's welfare
- prohibiting transportation of an unsecured dog travelling on a tray of a vehicle, or a trailer attached to a vehicle.<sup>39</sup>

Key amendments, together with stakeholder feedback, are discussed further below.

#### 3.2 New 'aggravated' breach of the duty of care offence

Currently, the Animal Care and Protection Act provides that a person in charge of an animal has a duty of care to that animal. This includes providing food, water, suitable living conditions, as well as allowing animals to display normal patterns of behaviour, ensuring that disease or injury is treated, and ensuring that any handling of the animal is appropriate.<sup>40</sup> If a person in charge does not take reasonable steps to provide for these needs, they breach the duty of care requirements and are liable for a maximum penalty of 300 penalty units or 1 year imprisonment.<sup>41</sup>

Clause 5 of the Bill introduces a new 'aggravated' breach of duty of care provision. This will apply in situations where the breach has resulted in the death, serious deformity, serious disablement, or prolonged suffering of the animal.<sup>42</sup>

<sup>39</sup> Explanatory notes, p 3.

<sup>40</sup> Section 17, *Animal Care and Protection Act 2001*.

<sup>41</sup> Section 17, *Animal Care and Protection Act 2001*.

<sup>42</sup> Explanatory notes, p 7.

The new offence provision attracts a significantly higher penalty of a maximum of 2,000 penalty units or 3 years' imprisonment. DAF advised that this 'is in recognition that an animal has suffered significant pain and distress when they die from malnutrition, dehydration and neglect of injuries'.<sup>43</sup>

The amendment was largely supported by inquiry stakeholders.<sup>44</sup> By way of example the Animal Defenders Office submitted:

The ADO supports the proposed inclusion of a higher maximum penalty for 'aggravated' breaches of duty of care where the breach has serious consequences including death or prolonged suffering of an animal. The ADO congratulates Queensland for consistently leading the nation in its maximum penalties for animal cruelty and similar offences. The penalties are significant and reflect the community's attitude and zero tolerance towards animal cruelty.<sup>45</sup>

RSPCA Queensland, Animal Justice Party, Australian Alliance for Animals and Animal Liberation Queensland, Queensland Farmers' Federation, Animal Welfare League Queensland and the Pet Industry Association of Australia also outlined their support for the amendment.<sup>46</sup>

### **3.2.1 Calls for an extension to offence provisions**

Several submitters suggested that the maximum penalties should also be applied to other offences.

For example, RSPCA Queensland submitted that the increased penalties could be applied in circumstances where a person has a failed duty of care to a large number of animals

If one person has a duty of care to a large number of animals and fails in that duty, a large number of animals suffer, even if each animal does not fit the description in the new 'aggravated' offence (e.g. puppy farms).<sup>47</sup>

RSPCA Queensland also suggested that the definition of a breach of duty of care should be amended to include husbandry in recognition that a lack of normal husbandry procedures can lead to significant suffering. For example, matted hair, overgrown nails or hooves or worm or flea infestations all can result in significant suffering.<sup>48</sup>

### **3.2.2 Extenuating circumstances**

The Queensland Farmers' Federation expressed reservations that the new offence could be used in drought situations where the body score of an animal drops because of feed rationing:

QFF supports strengthening enforcement powers but in applying the new aggravated breach of duty of care provision, is trusting that enforcement and investigations will consider extenuating circumstances and will consider that lower body scores in situations such as drought does not mean that deliberate intent to ration feed supplies in these circumstances is not an offence provided of course that the animals are otherwise healthy.<sup>49</sup>

Similarly, AgForce sought greater consultation to discuss exemptions in the event of extenuating circumstances such as natural disasters. AgForce explained that it may be impossible for a livestock owner to inspect and deal with suffering animals in a timely manner and that these situations are likely

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<sup>43</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 6.

<sup>44</sup> Submissions 779, 780, 890, 893 and 900.

<sup>45</sup> Animal Defenders Office, submission 900, p 2.

<sup>46</sup> Submissions 74, 168, 778, 779, 780, 890, 893, 900 and 1451.

<sup>47</sup> RSPCA Queensland, submission 893, p 2.

<sup>48</sup> RSPCA Queensland, submission 893, p 2.

<sup>49</sup> Queensland Farmers' Federation, submission 1451, p 2.



to cause death and/or prolonged suffering of an animal. AgForce recommended that an exemption for extenuating circumstances that are beyond human control be included.<sup>50</sup>

In response, DAF confirmed that in emergency situations such as floods or fires, consideration would be given as to whether a person had a reasonable excuse.<sup>51</sup>

### **3.3 Power of entry**

Clause 27 of the Bill gives inspectors a power of entry to a livestock slaughter facility without a warrant or consent of the occupier of the facility.

The amendments under Clause 27 were broadly supported by submitters.<sup>52</sup>

RSPCA Qld recommended that inspectors also be able to enter a premises to provide relief when an animal is in “imminent risk”.<sup>53</sup>

### **3.4 Clarifying the meaning of unreasonable abandonment**

In many cases where animals have been abandoned, others step in to provide food and water to the animal. For example, a neighbour at an adjoining premises. DAF advised that in these circumstances, there has been doubt as to whether an animal is still abandoned if someone is providing it with temporary care, or if the person providing the care becomes the person in charge of that animal.<sup>54</sup>

The Bill amends the act to remove any doubt that the person in charge of an animal remains responsible for an abandoned animal even where another person, such as a neighbour, may have volunteered to temporarily provide the animal with food or water.<sup>55</sup>

Several submitters supported this amendment including Pet Industry Association Australia, and Pawsome Behaviour Solutions.<sup>56</sup> The Animal Justice Party submitted that ‘unreasonable’ should be removed from the section as an abandonment of an animal can never be considered as being reasonable.<sup>57</sup>

#### **3.4.1 Local management of cats**

The Animal Welfare League Qld and the Australian Pet Welfare Foundation considered that there should be greater clarification of abandonment, particularly as it relates to domestic cats whether they are owned, semi-owned or unowned.<sup>58</sup>

These organisations recognised the importance of the abandonment provision, however considered that more clarity was required as the offence could hinder the effective management of cats which are not owned nor feral. Dr Verrinder from the Animal Welfare League Qld reflected on the management of cats at the public hearing:

Currently, under our biosecurity legislation, all cats that are not owned are regarded as feral or pest animals or restricted matter. We believe that, now we are revising the Animal Care and Protection Act, it is very important to establish in that act that domestic animals...have an opportunity to be distinguished

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<sup>50</sup> AgForce, submission 1491, p 3.

<sup>51</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 6.

<sup>52</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 25.

<sup>53</sup> RSPCA Queensland, submission 893, p 3.

<sup>54</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 6.

<sup>55</sup> Explanatory notes, p 7.

<sup>56</sup> Submissions 74 and 168.

<sup>57</sup> Animal Justice Party, submission 780, p 6.

<sup>58</sup> Animal Welfare League Qld, submission 778, p 2; Australian Pet Welfare Foundation, submission 886, p 3.

separately from feral animals which live remotely and do not depend on humans for their provision of food or anything else.

The reason for that is that there are much better and more effective ways of managing domestic cats. ... What we find is that there are huge numbers of people in the community who want to help but are currently prohibited by threats that they may be considered to be abandoning an animal or they might be considered to be doing the wrong thing with restricted matter. If domestic cats that live in cities and towns—whether they be owned, semi-owned or unowned—were regarded separately from feral cats, we could harness all the support we could in the community to actually get these animals in and get them desexed, and their numbers surprisingly would reduce in that way.<sup>59</sup>

#### **3.4.1.1 Committee comment**

The committee acknowledges the views of stakeholders regarding the definition of ‘abandonment’, particularly as it relates to the management of cats.

The committee understands that the issue falls outside of the scope of the Bill however, encourages the Department of Agriculture and Fisheries to include the issue in any future review of the *Animal Management (Cats and Dogs) Act 2008* and the *Biosecurity Act 2014*.

### **3.5 Certification of regulated procedures**

Clause 12 provides that a person must not supply another person a dog that has had a debarking operation, unless the supplier provides a signed veterinary surgeon’s certificate stating that the operation was performed in accordance with the Animal Care and Protection Act. Several exemptions are set out in the Bill, including if the dog was abandoned, and the supplier is surrendering the dog to a pound or shelter.<sup>60</sup>

The Bill also provides that if a pound or animal shelter takes possession of a dog that has had a debarking procedure, the shelter must provide a certificate to a new owner stating that the dog had had the procedure before it took possession of the animal.<sup>61</sup>

The Bill also amends the Act to introduce a requirement for a person who has been supplied an animal that has undergone a regulated procedure, such as tail docking, to keep a signed veterinary surgeon’s certificate stating that the procedure was done in the interests of the animal’s welfare.<sup>62</sup>

A maximum penalty of 150 penalty units or 1 year imprisonment will apply to the above offences.<sup>63</sup>

While Brisbane City Council supported the intent of the amendments, it suggested that that the requirement may deter people from surrendering an animal which had unlawfully undergone a regulated procedure or where the owner no longer had the certificate.<sup>64</sup> Brisbane City Council submitted:

... people may instead abandon their animal, or intentionally let it wander at large (which in turn may lead to attacks on other animals or people) or lie when surrendering, thus limiting the amount of information that would ordinarily be provided by the person surrendering the dog such as important medical history and endangering the welfare of the dog.<sup>65</sup>

Brisbane City Council also submitted that the amendment could increase the regulatory burden and rehoming centre operating costs on local governments:

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<sup>59</sup> Animal Welfare League Qld, Public hearing transcript, Brisbane, 14 June 2022, p 27.

<sup>60</sup> Explanatory notes, p 40.

<sup>61</sup> Explanatory notes, p 40.

<sup>62</sup> Explanatory notes, p 7.

<sup>63</sup> Explanatory notes, p 40.

<sup>64</sup> Brisbane City Council, submission 749, p 2.

<sup>65</sup> Brisbane City Council, submission 749, p 2.

While the legislation does not require a ‘veterinary surgeon’s’ certificate, it is understood the certificate would at least need to be provided by a suitably qualified person who would also be able to comment on the health of the dog following the debarking procedure (i.e. a veterinarian).<sup>66</sup>

### **3.6 Tail docking**

Clause 9 amends prohibits a person, other than a veterinary surgeon, from docking a dog’s tail. The Bill provides that a veterinary surgeon must not dock a dog’s tail unless the surgeon reasonably considers the docking is in the interests of the dog’s welfare. A maximum penalty of 100 penalty units is retained.

The Bill also removes an existing regulatory provision that allowed a person other than a veterinary surgeon to dock a dog’s tail if the docking was done in a way prescribed by a regulation.<sup>67</sup>

DAF advised that ‘allowing tail docking, other than for welfare reasons, and allowing a person other than a veterinary surgeon to perform the procedure prescribed by regulation no longer aligns with community expectations’.<sup>68</sup>

Farm Animals Rescue called for the provisions to be applied for all animals and submitted that there is no scientific basis for restrictions to apply to dogs and other types of animals, when the capacity for pain, distress and complications is the same.<sup>69</sup>

### **3.7 Transportation of an unsecured dog**

The Bill inserts a new section in the Act to prohibit the transportation of an unsecured dog travelling on tray of a vehicle, or a trailer attached to a vehicle, or of a dog whose body (other than its head) is able to protrude from an open window.<sup>70</sup>

DAF advised that the proposal will protect the welfare of dogs because, according to RSPCA statistics, thousands of dogs die or are injured each year while unsecured on a tray of a vehicle or on a trailer attached to a vehicle.<sup>71</sup>

The restrictions will not apply to dogs being transported on the tray of a vehicle or on a trailer, and for the purpose of assisting in the movement of livestock.<sup>72</sup> A maximum of 60 penalty units will apply.

Several submitters expressed their support for this amendment. Including from the Pet Industry Association of Australia, Dogs Queensland, Humane Society International, Animal Defenders Office, Animal Welfare League Queensland, Animal Liberation Queensland, the Animal Justice Party and Animal Care Australia.<sup>73</sup>

RSPCA Queensland proposed that the exemption should only apply if the dogs are actively assisting in the movement of stock.<sup>74</sup> Farm Animal Rescue submitted that working dogs should be protected by the provision and not be exempt.<sup>75</sup>

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<sup>66</sup> Brisbane City Council, submission 749, p 3.

<sup>67</sup> Explanatory notes, p 40.

<sup>68</sup> Explanatory notes, p 40.

<sup>69</sup> Farm Animal Rescue, submission 784, p 2.

<sup>70</sup> Explanatory notes, p 7.

<sup>71</sup> Department of Agriculture and Fisheries, correspondence, 30 June 2022, p 13.

<sup>72</sup> Explanatory notes, p 7.

<sup>73</sup> Submissions 74, 778, 779, 780, 781, 900, 901 and 909.

<sup>74</sup> RSPCA Queensland, submission 893.

<sup>75</sup> Farm Animal Rescue, submission 784, p 2.

DAF considered that the proposed amendment was unnecessary as establishing whether a person has complied with the provision will involve an investigation into how the dog was being used<sup>76</sup>.

AgForce outlined support with the intent to include an exemption however, sought further clarification on the definition of vehicle.<sup>77</sup>

### **3.8 Other enforcement issues not addressed by the Bill**

#### **3.8.1 Penalty Infringement Notices**

A Penalty Infringement Notice (PIN) provides an authorised person with an option to give a person an on-the-spot fine for an offence. Currently no offences under the Act and the Animal Care and Protection Regulation 2012 are prescribed as PIN offences.

Most Australian jurisdictions (New South Wales, Victoria, Tasmania and South Australia) currently use PINs as an enforcement option for dealing with animal welfare offences. Western Australia is in the process of establishing a PIN scheme.

DAF advised that the review in the Animal Care and Protection Act found that there was ‘very strong community support for a PIN scheme for animal welfare offences’ and that this was ‘balanced with concerns from industry and the community around the administration and appropriate circumstances for the use of PINs’.<sup>78</sup>

DAF also advised they are actively considering a process for the issuing of PINs.<sup>79</sup>

#### *Committee comment*

The committee encourages the Department of Agriculture and Fisheries to continue to explore a Penalty Infringement Notice scheme for appropriate, lower level animal welfare offences, in Queensland.

#### **3.8.2 Dog fighting and cock fighting**

Certain events are prohibited under the Act. This includes bullfighting, dogfighting, cockfighting, coursing (when an animal is released to be hunted by another animal) and releasing an animal to be hunted by a person.<sup>80</sup> The RSPCA Queensland believes the current maximum penalty for these offences are inadequate.

The RSPCA Queensland has investigated and successfully prosecuted offenders for dogfighting and cockfighting in Queensland. During investigations, RSPCA inspectors have uncovered that these events take months to organise and are planned in secret, posing a challenge for law enforcement.<sup>81</sup>

RSPCA Queensland states that animals are trained to develop muscle mass, endurance and aggression. Puppies are assessed at six months to see if they have the aptitude for fighting. Those that do not are usually destroyed. Dogs are forced to run on treadmills, swim for long periods, or strapped with heavy weights. Roosters are tethered so that they must work hard to reach their perches. Animals are housed near each other but cannot reach each other, which builds anxiety and aggression.<sup>82</sup>

Dogfights and cockfights are until the death, or until the animal is too injured to fight. Dogfights can go for hours, with four-five hour fights being quite common. In cockfights, roosters are fitted with

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<sup>76</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022.

<sup>77</sup> AgForce, submission 1491, p 2.

<sup>78</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022.

<sup>79</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022.

<sup>80</sup> Sections 20-22, *Animal Care and Protection Act 2001*.

<sup>81</sup> Public hearing transcript, Brisbane, 15 June 2022, pp 2-3.

<sup>82</sup> Public hearing transcript, Brisbane, 15 June 2022, p 3.

gaffs, which are sharp spurs attached to the back of the leg, designed to increase injury to the other rooster. Animals that survive will have their injuries stapled shut without pain relief, and animals that are too injured to continue fighting are destroyed inhumanely or abandoned.<sup>83</sup>

The penalties under section 21 for prohibited events (such as dogfights and cockfights) are 300 penalty units or 1 year in prison. The RSPCA Queensland submitted that these penalties are not adequate and the maximum penalty of the offences should reflect the seriousness of the offence. The RSPCA stated that the penalties for animal cruelty under section 18 are much higher at 2000 penalty units and 3 years in prison and should be applied to an offences relating to dog and cock fighting.<sup>84</sup>

### **3.8.3 Central records**

Currently inspectors have no right to enter premises to check whether a prohibition order is being adhered to unless information is received that provides evidence of a likely breach of the order.

There is also no central record of prohibition orders and no requirement for people subject to these orders to keep their address updated with RSPCA or Biosecurity Queensland, which means they can simply move to avoid compliance with the order.

The LGAQ advised that it has written to the state government about animal management compliance issues, and requesting a targeted review of the *Animal Management (Cats and Dogs) Act 2008*. The LGAQ highlighted the importance of the development of a state-wide database that includes the integration of micro-chipping with dog registration databases to track the movement of owners with dangerous dogs across Queensland. The LGAQ attested to the importance of these matters as raised by Brisbane City Council.

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<sup>83</sup> Public hearing transcript, Brisbane, 15 June 2022, pp 3-4.

<sup>84</sup> Public hearing transcript, Brisbane, 15 June 2022, pp 2, 4.

## 4 Prohibiting inhumane practices

### 4.1 Overview

The Bill amends the Animal Care and Protection Act and introduces new offences which will prohibit the inhumane practice of:

- firing or blistering<sup>85</sup> of a horse or dog
- possessing or using a prong collar, or another prescribed restraint on an animal
- processing or using prescribed prohibited nets
- using a poison on feral or pest animals that includes the ingredients carbon disulfide and phosphorus – for example, CSSP pig poison.

Key amendments, including stakeholder feedback, are discussed below.

### 4.2 Firing or blistering of a horse or dog

Clause 14 of the Bill prohibits the blistering of a horse or dog by providing that a person must not apply extreme heat or cold, acid or another caustic chemical to the leg of a horse or dog, with the intention of causing tissue damage or developing scar tissue around the ligaments or tendons of the animal's leg. A maximum penalty of 300 penalty units or 1 year imprisonment applies.<sup>85</sup>

Submitter to the inquiry, including the Queensland Farmers' Federation, Animal Welfare league Queensland and the Animal Justice Party, generally supported the amendment.

Dr Cadwell identified a potential loop hole in the proposed amendment at the public hearing:

It's a subtle point in terms of the initial drafting which brought in an intention requirement into the provision to cause tissue damage or the development of scar tissue. As I have noted in the submission, that may well be an outcome of the process that is referred to as firing or blistering, but it subtly misrepresents probably what the intention is. That really is to harness the body's inflammatory processes, the inflammatory reaction, that results from the trauma caused in an effort to have that inflammatory response go on and then contribute to the resolution of the underlying injury. ...

I just felt that there was a small loop [sic] there where it may have been difficult to prove intent to cause that as an outcome when, strictly speaking, it is not the outcome that you would by design wish to have.<sup>86</sup>

#### 4.2.1.1 *Committee comment*

The committee encourages the Department of Agriculture to review the drafting of blistering provisions, to ensure any unintended consequences are avoided.

### 4.3 Possession or use of prohibited devices – Prong collars

Clause 14 (new section 37A) of the Bill prohibits the possession and use of a prong collar without a reasonable excuse. The maximum penalty is 30 penalty units and 100 penalty units for possession and use, respectively.

A prong collar is defined in the Bill as a collar designed for use on a dog, and which consists of a series of links or segments with prongs, teeth or blunted open ends turned towards the skin of a dog so that, when the collar is tightened, the collar pinches the skin around the dog's neck.<sup>87</sup> The explanatory notes state that prong collars are an inappropriate training aid because they cause pain and fear in dogs and

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<sup>85</sup> Explanatory notes, p 43.

<sup>86</sup> Public hearing transcript, Brisbane, 14 June 2022, p 23.

<sup>87</sup> Clause 14, Animal Care and Protection Amendment Bill 2022.

can compromise the dog's welfare. The explanatory notes add that the incorrect use of a prong collar can cause bruising, scratching and punctures to the skin of a dog.<sup>88</sup>

There were mixed views presented to the committee on this part of the Bill.

#### 4.3.1 Support for the proposed ban

Many organisations outlined their support for the proposed ban including: RSPCA Queensland, Dogs Queensland, the Pet Industry Association of Australia, Australian Alliance for Animals, Pet Professional Guild Australia, Animal Justice Party, Pawsome Behaviour Solutions, Companions and Pets Party, Sentient, Animals Need Shade, Animals Australia Federation and Animal Liberation Queensland. Over 150 individuals also outlined their support the proposal.<sup>89</sup>

Multiple stakeholders suggested that the ban should go further. Pet Professional Guild Australia, the Animal Justice Party, Animal Liberation Queensland and Dogs Queensland were in favour of a universal ban on prong collars and recommended removing any "reasonable excuse" exemption provisions.<sup>90</sup> The Animal Justice Party recommended the ban extend to electronic collars.<sup>91</sup>

Pet Professional Guild Australia responded to arguments that prong collars are necessary for certain dog breeds. According to Pet Professional Guilds Australia, skilled and qualified trainers using positive reinforcement based on up to date scientific evidence can train a dog without using pain or fear.<sup>92</sup> Dogs Queensland reinforced this, arguing that banning prong collars aligns with their principles around animal welfare, responsible dog ownership and positive reinforcement training.<sup>93</sup>

Secretary of Pet Professional Guild Australia Ms Sarah Campbell outlined their rationale for supporting the the ban on prong collars. Ms Campbell advised "Why would I bother using a prong if I can get the same result without it? I do not understand why there is a reasonable excuse to use it when we are working with the same kind of dogs and getting perfectly fine results".<sup>94</sup>

According to Ms Elisa Jane McCutcheon, Director and Chair, Canine Health Committee of Dogs Queensland:

[W]e struggle to see any circumstance where the use of a prong collar would be acceptable. If you are inflicting pain upon a dog or negative reinforcement, for want of a better term, I believe that that is only really likely to cause confusion to the dog rather than result in a better outcome.<sup>95</sup>

DAF also provided further context around the proposed ban advising that the use of pronged collars is considered inappropriate because they are used in negative reinforcement training and cause unreasonable pain and fear in dogs.<sup>96</sup>

DAF advised that the importation of dog collars incorporating protrusions designed to puncture or bruise an animal's skin (e.g. prong collars) is prohibited in Australia, unless permission has been granted by the federal Minister for Home Affairs or an authorised person to import the goods, under sub-regulation 4(1) and item 10 in Schedule 2 of the Customs (Prohibited Imports) Regulations 1956

<sup>88</sup> Explanatory notes, p 25.

<sup>89</sup> Submissions 74, 168, 606, 779, 780, 783, 785, 890, 892, 893, 895 and 909.

<sup>90</sup> Pet Professional Guild Australia, submission 785, p 3; Animal Justice Party, submission 780, p 8; Animal Liberation Queensland, submission 779, p 8; Dogs Queensland, submission 909, p 3.

<sup>91</sup> Animal Justice Party, submission 780, p 8.

<sup>92</sup> Pet Professional Guild Australia, submission 785, p 3.

<sup>93</sup> Dogs Queensland, submission 909, p 3. Animal Liberation Queensland, submission 779, p 8.

<sup>94</sup> Public hearing transcript, Brisbane, 15 June 2022, p 26.

<sup>95</sup> Public hearing transcript, Brisbane, 14 June 2022, p 45.

<sup>96</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, pp 13-14.

(Commonwealth). Prong collars are banned in Victoria (section 11 Prevention of Cruelty to Animals Regulation 2019) and New Zealand (Code of Welfare: Dogs).<sup>97</sup>

DAF also advised:

The use of aversive training methods (based on negative reinforcement and punishment) including the use of prong collars has been reviewed and correlated with indicators of compromised welfare in dogs including elevated cortisol levels associated with stress and pain and problematic behaviours such as fear and aggression.<sup>98</sup>

DAF also advised that prong collars can cause physical injuries, such as bruising, scratching and punctures to the skin of the dog:

With repeated use over time, this can lead to scar tissue developing. In extreme but rare cases, prong collars have been associated with injuries to the spinal cord, trachea (windpipe) and larynx. In 2017, a case report about a condition called acute compartment syndrome of the masticatory muscles in a Belgian Malinois dog following a training incident. It was reported that (i) the neck of the dog was traumatised and abrasions around the neck where a prong collar was worn and (ii) occlusion of the arteries of the neck by the prong collar may have caused optic nerve damage resulting in blindness.<sup>99</sup>

DAF also advised that if ongoing aversive methods are required to control a dog's behaviour, it is reasonable to question whether the dog is suitable for that person:

If the dog is not suitable for a person, options for dealing with the dog includes appropriate humane retraining, rehoming or humane euthanasia. This issue highlights the importance of socialisation of puppies and ensuring dogs are trained appropriately.<sup>100</sup>

#### **4.3.2 Opposition to the proposed ban**

The committee heard stakeholders argue against the ban on prong collars. Submissions were primarily from dog trainers and existing users of the collars and included Dog Training Queensland, Professional Dog Trainers of Australia, Four Paws Australia, Paws for Hope and Understanding Inc., Companions and Pets Party, Above and Beyond Dog Training, Beautiful Beasts Dog Training, International Association of Canine Professionals (Texas, USA), Training Four Paws Australia.

Some submissions claimed that consultation on the proposals to ban prong collars could have been more thorough. Some pet trainers and existing users of prong collars, submitted that 'there was no opportunity for the community to be surveyed' on the proposal and potential impacts to the wider community. These stakeholders contended that prong collars were a humane and useful training aid for dogs that did not respond to other training tools.<sup>101</sup>

Dog Training Queensland stated that the definition of prong collars in the explanatory notes as devices designed to "pierce or bruise the skin" is factually incorrect.<sup>102</sup> The committee was forwarded a letter from prong collar manufacturer Herm. Sprenger in Germany, which stated that their prong collars have rounded prongs that cannot injure a dog's skin, with a central plate that directs the prongs away from the larynx.<sup>103</sup> The submission from the International Association of Canine Professionals referred to Starmark prong collars, which have "purposefully blunt" prongs.<sup>104</sup>

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<sup>97</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, pp 14-15.

<sup>98</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, pp 14-15.

<sup>99</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, pp 14-15.

<sup>100</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, pp 14-15.

<sup>101</sup> Submissions 46, 370, 606, 630, 853, 859, 888, 896, 906 and 1445.

<sup>102</sup> Public hearing transcript, Brisbane, 14 June 2022, p 33.

<sup>103</sup> Herm. Sprenger Metallwarenfabrik, correspondence, 14 June 2022, p 1.

<sup>104</sup> International Association of Canine Professionals, submission 859, p 3.



The International Association of Canine Professionals added that any restraint device can cause injury or pain if misused, but that it is unreasonable to ban a device because the owner does not know how to properly operate it.<sup>105</sup> Dogs Training Queensland stated that the only damage a prong collar may cause is potential skin irritation, and that is if the prong collar is fitted incorrectly or made of stainless steel that contains nickel, with some dogs being allergic.<sup>106</sup>

Professional Dog Trainers of Australia stated that puncture and scratch wounds were likely caused by the prong collar being put on too tight or left on too long, an issue that equally applies to other restraints, such as harnesses.<sup>107</sup> Professional Dog Trainers Australia asked the RSPCA for incidents of prong collar damage to dogs, but they stated the reply did not include any specific references.<sup>108</sup>

Dog Training Queensland emphasised that they received correspondence from the RSPCA confirming that there have been zero prosecutions of individuals for prong collars since 2006 (records earlier than this are difficult to obtain).<sup>109</sup> The International Association of Canine Professionals added that anyone who intends to cause injury or pain to their dog does not need a prong collar to do so—any device, if misused, can cause injury or pain.<sup>110</sup>

Stakeholders in favour of prong collars emphasised that they are not suitable in all situations. Professional Dog Trainers Australia stated that some dogs will make significant behaviour improvements with a prong collar, but that a prong collar is not necessary, or even suitable, for every dog breed.

Professional Dog Trainers Australia added military and police dog units prefer prong collars to control “high-spirited animals with high levels of performance”.<sup>111</sup> The International Association of Canine Professionals referred to Germany’s prohibition of prong collars resulting in a 40 per cent reduction of deployed canines, adding a burden to the canine units left in the field.<sup>112</sup>

Similarly, disabled people use prong collars to gain confidence and have clearer communication with their assistance dog. Professional Dog Trainers Australia said these are the groups who would lose out if collars were banned.<sup>113</sup>

The Companions and Pets Party and Pawsome Assistance Dogs were in favour of a prohibiting sales of prong collars to the general public, but making them available to qualified, licensed professional dog trainers and dog behaviouralist schools.<sup>114</sup>

#### **4.3.3 Committee comment**

The committee acknowledges and has considered the various views presented by inquiry stakeholders on the banning of pronged collars. On balance, the committee is satisfied that the prohibition of prong collars is appropriate.

The committee recommends the Department of Agriculture and Fisheries to work with colleagues in the Australian Government, as appropriate, in relation to the prohibition on the import of dog collars incorporating protrusions designed to puncture or bruise an animal's skin.

<sup>105</sup> International Association of Canine Professionals, submission 859, p 3.

<sup>106</sup> Public hearing transcript, Brisbane, 14 June 2022, pp 35-36.

<sup>107</sup> Public hearing transcript, Brisbane, 14 June 2022, pp 35-36.

<sup>108</sup> Public hearing transcript, Brisbane, 14 June 2022, p 41.

<sup>109</sup> Public hearing transcript, Brisbane, 14 June 2022, p 41.

<sup>110</sup> International Association of Canine Professionals, submission 859, p 3.

<sup>111</sup> Public hearing transcript, Brisbane, 14 June 2022, p 34.

<sup>112</sup> International Association of Canine Professionals, submission 859, p 5.

<sup>113</sup> Public hearing transcript, Brisbane, 14 June 2022, p 34.

<sup>114</sup> Companions and Pets Party, submission 606, p 4; Pawsome Assistance Dogs, submission 1477, p 4.

## **Recommendation 2**

The committee recommends that the Department of Agriculture and Fisheries continue to work with colleagues in the Australian Government, as appropriate, in relation to the prohibition on the import of dog collars incorporating protrusions designed to puncture or bruise an animal's skin.

### **4.3.4 Other restraints**

There was some confusion and concern about the potential for the banning of other restraint devices.

AgForce considered that the wording of this amendment could have a broad interpretation. AgForce recommended greater consultation to improve the way the section had been drafted and active industry consultation in the defining of prescribed restraint devices indicated in the Bill.

RSPCA Queensland expressed a similar sentiment submitting that the examples provided in the definition of *restraint device* - "*collars, leads, harnesses, muzzles, halters*" should be removed or changed, because it is causing confusion amongst members of the public who think this means that these examples are going to be prohibited in the regulations.

In response, DAF advised that in implementing any such provisions, it will provide clear communication about these examples.<sup>115</sup>

Submissions from the Association of Responsible Dog Owners, Companions and Pets Party, Bark Busters International, Aussie Pooch Mobile Pty Ltd, Beautiful Beasts Dog Training, International Association of Canine Professionals (Texas, USA), and Animals Need Shad raised concerns about the possibility of other restraint devices being prohibited.<sup>116</sup>

DAF confirmed that the process of proscribing other devices involves an amendment to subordinate legislation and would be subject to the Queensland Government's better practice regulation requirements, which includes consultation with affected stakeholders and careful consideration of the impacts.<sup>117</sup>

#### **4.3.4.1 Committee comment**

The committee sought additional clarity on the application of provisions relating to restraint devices. The committee is comfortable that the drafting of the Bill is appropriate. However, the committee encourages the Department of Agriculture and Fisheries to actively engage with stakeholders to ensure that any new provisions are well understood and the intent is adequately communicated.

The committee also emphasises the importance of ensuring that any further regulatory changes are supported by comprehensive consultation with affected stakeholders.

### **4.4 Prohibited nets**

The Bill provides that a person must not possess a net prescribed by a regulation (a prohibited net) unless the person has a reasonable excuse. The maximum penalty is 30 penalty units for procession, and 100 penalty units for use.

No specific nets are prescribed by the Bill.

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<sup>115</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 15.

<sup>116</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 15; Submissions 17, 606, 608, 852, 853, 859 and 1445.

<sup>117</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 14.

The process of prescribing prohibited nets would involve an amendment to subordinate legislation and would be subject to the Queensland Government's better practice regulation requirements, which includes consultation with affected stakeholders and careful consideration of the impacts.<sup>118</sup>

#### 4.5 Use of CSSP poison on feral or pest animals

The Bill inserts an offence to use poison on feral or pest animals that includes the ingredients carbon disulphide and phosphorus such as CSSP Pig Poison.

Feral pigs are among Queensland's most widespread and damaging pest animals. They spread weeds, degrade soil and water, prey on native species, damage crops and livestock, and carry diseases. Historically, CSSP phosphorus pig poison has been used in Queensland for the control of feral pigs.<sup>119</sup>

The primary driver for the prohibition is the inhumaneness of the poison. DAF advised that the prohibition on the use of CSSP is not expected to impact the control of feral pigs given the availability of alternative control methods. Among the various methods and substances used to control feral pigs, CSSP has been assessed as being the most inhumane by a model for assessing the relative humaneness of pest animal control methods.<sup>120</sup>

DAF advised that:

Ingestion of CSSP by pigs produces lethargy, depression, and signs of gastrointestinal irritation such as reluctance to move or eat, vomiting and diarrhoea. With very large doses, the pigs can die from shock with six to 12 hours of ingestion. If the dose is lower, animals may survive for several days before dying from liver necrosis and heart failure.

Most pigs die two to four days after ingestion. However, in some cases there may be a delay of up to three weeks before death occurs.<sup>121</sup>

The ingredients of CSSP - carbon disulfide and phosphorus – are also understood to be toxic to a wide range of bird and animal species.<sup>122</sup>

DAF advised that the humaneness model below indicates CSSP scores to be the lowest compared to any other control method due to the intensity of suffering and the mode of death this poison causes.

The model also highlights the availability of more humane alternatives to using CSSP including sodium nitrite, 1080, trapping, and ground and aerial shooting. The Bill does not make any changes that affects the availability of the more humane options on feral or pest animals. AgForce disputes the value of the humaneness model.<sup>123</sup>

<sup>118</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, pp 15-16.

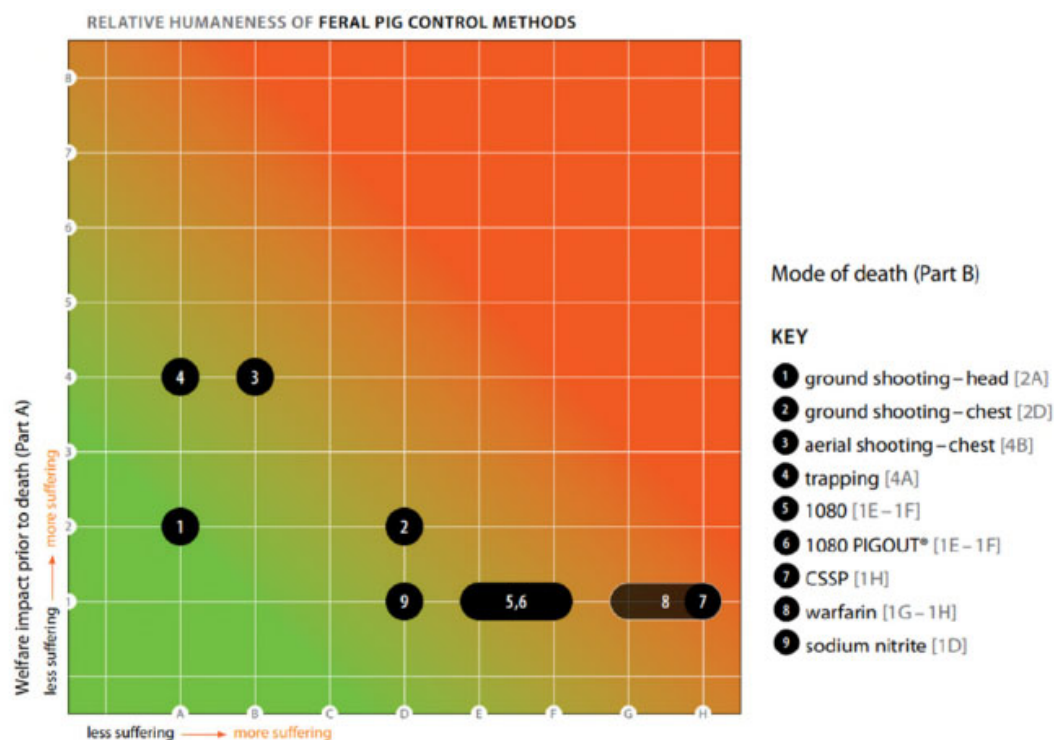
<sup>119</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, pp 18 – 19.

<sup>120</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, pp 18 – 19.

<sup>121</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, pp 18 – 19.

<sup>122</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, pp 18 – 19.

<sup>123</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 19.



**Figure 1 - Relative humaneness of feral pig control methods.** Adapted from Sharp, T. and Saunders, G. (2011). A model for assessing the relative humaneness of pest animal control methods (Second edition). Australian Government Department of Agriculture, Fisheries and Forestry, Canberra, ACT.

Multiple inquiry stakeholders outlined their support for the amendment including Australian Pork Limited (manager of the National Feral Pig Management Coordinator Program), Queensland Farmers' Federation, Animal Liberation Queensland, Animal Justice Party and Animal Care Australia.<sup>124</sup>

DAF advised that there is one manufacturer of CSSP in Queensland and that the use of CSSP is understood to be used by landholders in areas close to where it is manufactured including in: Goondiwindi, St. George, and Cunnamulla, and areas in North Queensland such as Strathmay. DAF advised that in general, local government authorities do not use CSSP but that CSSP appears to cost less compared to 1080 poison.<sup>125</sup>

DAF also advised that the prohibition of CSSP in Queensland will bring the state's legislation in line with most other jurisdictions.<sup>126</sup> It also noted that prior to any prohibition coming into effect, guidance will be provided to local governments and landholders on alternative control methods, and options for disposing of unused CSSP.<sup>127</sup>

#### 4.5.1 1080 (Sodium fluoroacetate)

Several submissions called for a ban 1080 on welfare grounds. The Bill is not prohibiting the use of 1080. 1080 is registered for the control of wild dogs, feral pigs, feral cats, foxes and wild rabbits in Queensland. Some local governments provide a 1080 baiting service for landholders in their area.

Organisations including Pawsome Behaviour Solutions; Animal Welfare League Queensland; Animal Liberation Queensland; Animal Justice Party; Animal Defenders Office; Tasmanian Wildlife

<sup>124</sup> AgForce, submission 1491, p 3.

<sup>125</sup> Department of Agriculture and Fisheries, Correspondence, 16 June 2022, p 19.

<sup>126</sup> Department of Agriculture and Fisheries, Correspondence, 16 June 2022, p 19.

<sup>127</sup> Department of Agriculture and Fisheries, Correspondence, 16 June 2022, p 20.

Rehabilitation Council Inc.; Tamborine Mountain Natural History Association Inc. were also in favour of banning 1080.

#### **4.6 Prohibited traps**

The Bill does not prescribe any traps for prohibition. However, many submitters called for particular traps to be banned, in particular glue traps.

The process of prescribing a prohibited trap would involve an amendment to subordinate legislation and would be subject to the Queensland Government's better practice regulation requirements, which includes consultation with affected stakeholders and careful consideration of the impacts.

##### **4.6.1 Glue traps**

More than 850 submissions to the committee's inquiry called for a ban on glue traps.<sup>128</sup>

Glue traps consist of a non-drying adhesive or gel applied to a rigid base made of wood, cardboard, fibreboard or plastic. The devices are typically placed in the runways of target animals such as rodents (mice and rats), reptiles (lizards and geckos) and insects. A lure or scent attractive to the target species can be added to the device.

Glue traps are currently unrestricted and available for sale to the general public in Queensland.

The Animal Defenders Office urged the committee to join other Australian jurisdictions in banning glue traps.<sup>129</sup> The Australian Capital Territory, Tasmania and Victoria have limited the sale of glue traps or outlawed their use entirely.<sup>130</sup>

##### **4.6.2 Steel jaw traps**

Steel-jaw traps were also the subject of submissions to the Committee. Organisations including the Animal Justice Party; RSPCA Queensland; Animal Defenders Office; Tasmanian Wildlife Rehabilitation Council Inc; Tamborine Mountain Natural History Association Inc called for a ban steel-jaw traps.

Steel jaw or leg-hold traps are designed to spring shut onto a leg and hold the animal (e.g. wild dogs, foxes and feral cats). One submission also called to prohibit opera house traps (designed to trap yabbies) based on the non-target effects on mammals, fish, turtles and reptiles.

DAF advised that the prescribing of any prohibited traps in regulation would involve an amendment to subordinate legislation and would be subject to the Queensland Government's better practice regulation requirements, which includes consultation with affected stakeholders and careful consideration of the impacts.

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<sup>128</sup> Submissions 357, 771, 898, 983 and 1234.

<sup>129</sup> Tara Ward, Animal Defenders Office, Public hearing, Brisbane, 15 June 2022, p 28.

<sup>130</sup> See the Australian Capital Territory's Animal Welfare Act 1992; Tasmania's Animal Welfare Act 1993; and Victoria's Prevention of Cruelty to Animals Regulations 2019.

## 5 Providing for an approved cattle procedures accreditation scheme

### 5.1 Overview

The Bill amends the Animal Care and Protection Act to allow the chief executive (the Director-General of DAF) to approve cattle procedures accreditation schemes under which a person may gain accreditation to perform prescribed procedures on cattle.

This will allow a lay person (a non-veterinarian) to spay cattle using the Willis dropped-ovary technique, or pregnancy test cattle using rectal palpation, or transrectal ultrasound, (each a prescribed procedure under the Bill).<sup>131</sup>

This amendment implements a previous decision of the Queensland Government following a regulatory impact statement (RIS) consultation process in 2018.

DAF confirmed that the lack of access to veterinarians in remote areas is one of the driving factors for the introduction of accreditation scheme.<sup>132</sup>

#### 5.1.1 Biosecurity and natural surveillance

Veterinarians raised concerns about the risk of losing an aspect of biosecurity surveillance if veterinarians are not involved in pregnancy testing in regional areas. Dr Brightman, Australian Veterinarian Association advised:

The most important thing though is that we need to maintain veterinary involvement in the production animal areas and pastoral areas. There is the added major benefit—and I think this is a major benefit to the community—of the passive surveillance that we do in our daily work. Veterinarians are trained in disease recognition and early detection. We see this passive surveillance as part of the job. This is absolutely crucial with the lack of government staff on the ground trained in these areas, the lack of stock inspectors and the lack of government vets. Also, we have Japanese encephalitis setting up on this shore, foot-and-mouth disease is in Bali and lumpy skin disease is probably only two good monsoon seasons away due to the fact that it is carried by mosquitoes and carried on the winds. It is insect borne and it is in Indonesia. I think that is going to be the biggest worry. It is a disease that is easily confused with a lot of diseases that we have in Queensland like rain scald or something like that.<sup>133</sup>

In 2018, the Decision RIS noted that the department recognised it may need to implement strategies to address these risks if they were to arise.<sup>134</sup>

#### 5.1.2 Viability of remote and regional veterinarian practices

Veterinarians raised concerns about impacts on the viability of regional or remote veterinarian practices, and access to veterinarians for more general veterinary care.<sup>135</sup>

The Australian Veterinary Association acknowledged the need for a pathway for non-veterinarians to perform cattle procedures in certain circumstances. However, emphasised the need for a robust accreditation process and ongoing veterinary involvement to protect the viability of regional or remote practices:

This is a major economic point. I know this bill is to do with welfare but, if we are going to treat animals and look after animals, we have to have sustainable veterinary practices. We have to have vets on the ground to train staff. We have to have professional staff to go out and recognise biosecurity issues and also to be ready to respond to a government call in the case of an emergency. Pregnancy testing and spaying is a bread-and-butter issue for practices. That allows us to do the job. If you take 20,000 head of

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<sup>131</sup> Explanatory notes, p 8.

<sup>132</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 11.

<sup>133</sup> Public hearing transcript, Brisbane, 14 June 2022, p 16.

<sup>134</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 9.

<sup>135</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 9.

pregnancy testing away from a practice, you will lose one veterinary staff member. That, to me, is a major issue. With a staff of seven we can respond to a national emergency, having an emergency workforce to look after the welfare of those animals, but I am certain that if we come back to two or three vets in a practice we may not be able to respond in that way.<sup>136</sup>

DAF advised that similar concerns were raised during the process. However, primary producers felt that the current costs of accessing a veterinarian for pregnancy testing in terms of additional travel costs and lost opportunity costs overwhelmed the potential risk.<sup>137</sup>

### 5.1.3 Standards and guidelines

The Bill allows an accredited lay person to spay cattle using the Willis dropped-ovary technique. This implements a requirement under the Australian Animal Welfare Standards and Guidelines for Cattle endorsed by State and Territory Governments in 2016.<sup>138</sup> DAF also advised that pregnancy testing is required before the export of live cattle, to protect the welfare of pregnant cattle and that veterinarians will continue to have exclusive access to certain export markets, because it is a requirement of the Australian Standards for the Export of Livestock.

Currently, laypersons who have completed the unit of competency (AHCLSK335) may spay cattle. This requirement will be replaced with the requirement for accreditation under the Act. Veterinarians can and will continue to be able to spay cattle.

The Queensland Farmers Federation supported the accreditation scheme provided standards were high.<sup>139</sup>

In response, DAF confirmed that the Bill provides for the functions of accreditation schemes, which include setting competency requirements for accreditation, and providing for auditing, complaints investigations, cancelling and suspension of a person's accreditation. In order to approve an accreditation scheme, the Director-General will need to be satisfied that the scheme provides for those functions. DAF also advised that recognised training in these procedures is already available through the vocational education and training system, which may form part of accreditation schemes or inform equivalent competency requirements of accreditation schemes.<sup>140</sup>

### 5.1.4 Animal welfare

The Animal Welfare League Queensland and Animal Liberation Queensland did not support the accreditation schemes as they consider such schemes will not protect the welfare of animals and are rather a change for "practicality and costs savings".

The Animal Justice Party (AJP) also opposed the proposal. The AJP submitted that an accredited person should be liable to prosecution if they breach the scheme conditions. If an accredited person does not perform a procedure to the required competency standards they may be liable to prosecution under sections 17 and 18 of the Animal Care and Protection Act.

The Australian Alliance for Animal and Animal Liberation Queensland submitted that the accreditation scheme for spaying should mandate pain relief and both accreditation schemes should be reviewed within two years or as soon as non-surgical alternatives are available.

Similarly, the Australian Veterinary Association submitted that surgical spaying must occur in conjunction with effective pain relief and not continue once medical means of controlling oestrus and conception in cattle become commercially available. AVA expect this will occur in the near future.

<sup>136</sup> Public hearing transcript, Brisbane, 14 June 2022, p 16.

<sup>137</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022.

<sup>138</sup> Explanatory notes, p 4.

<sup>139</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 10.

<sup>140</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 11.

DAF confirmed that it will conduct a review of the accreditation scheme for spaying if non-surgical alternatives become available.<sup>141</sup>

#### **5.1.5 Supervision by registered veterinarians**

The AVA considered that lay spaying and lay pregnancy testing should be conducted under the supervision of a registered veterinarian and be authorised by the Veterinary Surgeons Board.

The AVA also recommended specific training (including refresher training) in each technique. For example, in the case of pregnancy testing the supervising veterinarian should be a PREGCHECK® registered veterinarian.

In response, DAF noted that while these specific training courses are not specifically required in the Bill, the accreditation framework and requirement for the Director-General to be satisfied that the functions of the scheme will be met (including competency) provide the scope for consideration of suitable training and supervision arrangements for lay pregnancy testers and spayers.

#### **5.1.6 Committee comment**

The committee considers that the proposals for approved cattle procedures accreditation scheme are appropriate.

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<sup>141</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 11.



## 6 Making clarifications and removing redundant provisions

### 6.1 Overview

The Bill seeks to provide clarity and remove redundant provisions by amending the Animal Care and Protection Act to:

- state that codes of practice are to be based on good practice and scientific knowledge
- provide that all species from the class Cephalopoda are prescribed as animals under the Animal Care and Protection Act, rather than prescribing them by regulation
- clarify that rodeos are not a prohibited event
- remove the obligation to exercise closely confined dogs
- provide an offence exemption for veterinary surgeons where they decide to euthanase sick and/or injured animals if the owner cannot be readily located
- make minor amendments to headings of sections and parts of chapters to reflect the amendments proposed in the Bill.<sup>142</sup>

Key amendments, including stakeholder's feedback, are discussed below.

### 6.2 Codes of practice about animal welfare

Currently, the Animal Care and Protection Act provides that a regulation may make codes of practice about animal welfare. Clause 4 of the Bill amends this section to state that a regulation may make codes of practice about animal welfare 'that are based on good practice and scientific knowledge'.

DAF advised that this approach is consistent with current practice and is a requirement of the Australian Animal Welfare Standards and Guidelines for the welfare of livestock.<sup>143</sup>

### 6.3 Cephalopoda

The Act sets out the definition of an animal. Currently, a live invertebrate creature of a species, or a stage of the life cycle of a species, from the class Cephalopoda (for example cuttlefish, nautilus, octopi, and squid) or Malacostraca (for example crabs, crayfish, lobsters and prawns) must be prescribed under a regulation to fall within that definition.

Clause 3 will elevate the provisions in the Animal Care and Protection Regulation 2012 prescribing Cephalopods under section 11 of the Act into the Act. DAF advised that this will streamline and improve the interpretation of the legislation.<sup>144</sup>

Related to the definition of an animal, was the issue of sentience – that is, the capacity to experience feelings and sensations. The issue of sentience was raised in several submissions to the committee, with many calling for sentience to be formally recognised under the Animal Care and Protect Act.<sup>145</sup>

In response, DAF advised that the Animal Care and Protection Act implicitly recognises sentience as only sentient animals are prescribed as animals under the Act.

### 6.4 Rodeos and calf roping

Clause 7 amends the Act to clarify that all events at rodeos are not prohibited events.

<sup>142</sup> Explanatory notes, p 4.

<sup>143</sup> Explanatory notes, p 39.

<sup>144</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 5.

<sup>145</sup> Submissions 778, 890, 893, 901 and 907.

Since January 2022, the conduct of rodeos has been subject to compliance with the 'Code of practice about rodeos' (the Code) which is prescribed under the Animal Care and Protection Regulation 2012 (ACP Regulation).

The Code defines the activities associated with a rodeo event, and prescribes the requirements relating to the care, handling, and use of rodeo animals at a rodeo.<sup>146</sup> The code was developed in consultation with an advisory group which included representatives from animal welfare groups, rodeo organisations and Australian Veterinary Association.<sup>147</sup>

Many submitters including the RSPCA Queensland, Animal Liberation Queensland, the Animal Justice Party, Sentient, Farm Animal Rescue, Animal Defenders Office, Humane Society International), Dr Steven White and the Australian Alliance for Animals called for a ban on rodeos and in particular, calf roping (also known as rope and tie events).<sup>148</sup>

Animal Liberation Queensland also reflected on community expectations, submitting that in 2019 over 60,000 people had signed the organisation's petition asking for a ban of calf roping in Queensland. The submission from People for the Ethical Treatment of Animals included a petition to ban calf roping with 8,265 signatories, adding:

We are writing ... to implore the Queensland Parliament to use this opportunity to ban calf roping in the state. In calf-roping events, young animals running at full speed sustain trauma to their necks when they're lassoed with a rope, violently jerked backwards, and slammed to the ground. The force of being lassoed by the neck causes many calves to become airborne before human adults throw themselves on top of the terrified animals and tie them up with a rope. Calves – who are just babies – find this extremely stressful and are sometimes so badly injured that they need to be carried out of the arena.<sup>149</sup>

Many individual submitters (over 180) also called for calf-roping or rodeo events to be prohibited.

In response, DAF advised that the rodeo code of practice introduces specific requirements to better protect calves used in such events and improve their welfare. DAF also confirmed that the Queensland Government has committed to reviewing calf roping in five years from commencement of the code.<sup>150</sup>

## **6.5 Exercising closely confined dogs**

Clause 13 of the Bill removes the obligation to exercise closely confined dogs within prescribed time periods.

DAF advised that consultation feedback from the review of the Act indicated that the current definition of *closely confined* is vague and experience has demonstrated that it is difficult to enforce as it is difficult to prove that a person has noted exercised their dog within the prescribed timeframe.<sup>151</sup>

Several submissions objected to the removal of the obligation to exercise closely confined dogs. For example, Dogs Queensland consider that unlike livestock, there appear to be no protections for a dog kept in prolonged close confinement.<sup>152</sup> Similarly, the Animal Justice Party expressed concerns that the removal of the requirement sends an unwelcome message to the community and recommends

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<sup>146</sup> Explanatory notes, pp 39-40.

<sup>147</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 8.

<sup>148</sup> Submissions 779, 780, 783, 784, 890, 893, 900, 901 and 903.

<sup>149</sup> PETA Australia, submission 897, p 2.

<sup>150</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 8.

<sup>151</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 12.

<sup>152</sup> Dogs Queensland, submission 909, p 2.

that DAF support an education campaign regarding the tethering and confinement of dogs.<sup>153</sup> Animal Care Australia and Animal Defenders Office also objected to the removal of the provision.<sup>154</sup>

In response, DAF advised that it considered that this section is no longer required, as the circumstances are adequately covered under section 18 (Animal cruelty prohibited) of the Animal Care and Protection Act.<sup>155</sup>

## 6.6 Euthanasing sick or injured animals by veterinary surgeons

Clause 15 of the Bill inserts new section (Euthanising sick or injured animals by veterinary surgeons) which applies for an offence if the act that constitutes the offence – (a) involves the killing of an animal; and (b) is done by a veterinary surgeon.

It is a defence for a veterinary surgeon if they can demonstrate:

- (a) The act was done in the belief that the animal was in a condition that it would have been cruel to keep it alive; and
- (b) The act was done in a humane way; and
- (c) The veterinary surgeon took reasonable steps to identify and contact the person in charge of the animal.

Under the new section a veterinary surgeon is not liable, civilly, criminally or under an administrative process for euthanising the animal if they comply with section 41B.

The Australian Veterinary Association submitted that “the AVA is pleased to see this amendment proposed”. However, the AVA were seeking the legal authority and indemnity from prosecution to euthanise injured and sick animals where it is deemed cruel to keep them alive. The AVA advised that the proposed amendment will adversely impact the welfare of animals in this situation by potentially prolonging their suffering unnecessarily.<sup>156</sup>

Farm Animal Rescue recommended that the welfare of an animal should be highest priority over the property rights of ownership over an animal. The animal’s pain should be reduced, and euthanasia initiated over and above the need to locate the owner of the animal and confirm consent to treat and/or euthanise the animal.<sup>157</sup>

This proposed new section needed to consider the potential impact on a person’s property rights under the *Human Rights Act 2019* and has included safeguards in relation to the professional conduct of veterinary surgeons. Veterinary surgeons have the necessary skills and knowledge and access to veterinary medications (e.g., analgesics) to ensure that animals do not suffer unnecessarily while the required inquiries as to whether the animal’s owner can be located are made.<sup>158</sup>

This proposed new section was supported by other submissions including from Dogs Queensland, the Animal Justice Party, Animal Liberation Queensland, Animal Welfare League of Queensland and the Pet Industry Association of Australia.<sup>159</sup>

<sup>153</sup> Animal Justice Party, submission 780, p 7.

<sup>154</sup> Submissions 781 and 900.

<sup>155</sup> Explanatory notes, p 42.

<sup>156</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 16.

<sup>157</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 16.

<sup>158</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 16.

<sup>159</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 16.

## **6.7 Disability Services Act**

The Bill amends the Disability Services Act 2006 (DS Act) to: correct an error in a cross-reference in the DS Act; and prescribe the new offence of ‘aggravated’ breach of duty of care under the ACPA as a serious offence under the DS Act.<sup>160</sup>

### **6.7.1.1 Committee comment**

The committee is satisfied that the amendments which seek to clarify existing provisions in the Bill, and which remove redundant provisions, are relevant and appropriate.

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<sup>160</sup> Explanatory notes, p 4.

## 7 Martin Inquiry Recommendations

### 7.1 Overview

A key policy objective of the Bill is to implement some of the recommendations of the Inquiry into animal cruelty in the management of retired Thoroughbred and Standardbred horses in Queensland (the Martin Inquiry).

The Martin Inquiry was commissioned by the Queensland Government in response to media coverage which raised issues about the treatment of horses at a Queensland abattoir. The Martin Inquiry looked at the management of retired racehorses and the regulatory and oversight arrangements for abattoirs and knackeries and the transport of horses to those facilities.

The Martin Inquiry delivered its report to the Queensland Government in January 2020, and in February 2020 the Queensland Government published its response, supporting each of the recommendations either in full or in part.<sup>161</sup>

Although the State government's commitment to implement the recommendations were not part of the review of the Act, the commitments relate to animal welfare. It was therefore considered appropriate to include them in the Bill.

DAF advised that it will provide for more effective monitoring of livestock slaughter facilities by the department, and safeguarding of the welfare of retired racehorses by the Queensland Racing Integrity Commission (QRIC).<sup>162</sup>

The Bill will amend the Animal Care and Protection Act to:

- Require the use of closed-circuit television equipment at livestock slaughter facilities at all critical animal handling and processing areas, to record clear surveillance of the movement of animals from arrival to exsanguination, and store it for at least 30 days
- Provide inspectors and entry power to enter a livestock processing facility and remain at the place while horses are being unloaded, kept and processed
- Require a livestock slaughter facility to give the chief executive notice of arrival of horses to the livestock slaughter facility at least two days prior to their arrival.

The Bill also proposed to amend the Racing Integrity Act to:

- Extend the functions of QRIC to protect the welfare of retired racehorses
- Clarify that a standard for a licensing scheme for a code of racing can be made for horses
- Impose reporting and recording obligations on the suppliers to, and owners of, a livestock slaughter facility to enable QRIC access to information to verify whether retirement and rehoming information for horses has been reported correctly.

Further information on key amendments, including stakeholder feedback is discussed further below.

### 7.2 Closed-circuit television equipment for livestock slaughter facilities

The Bill implements one of the recommendations of the Martin Inquiry for mandatory CCTV in horse slaughter facilities and establishes a head of power to prescribe further livestock slaughter facilities have CCTV should it be required.<sup>163</sup>

<sup>161</sup> Explanatory notes, p 4.

<sup>162</sup> Explanatory notes, p 25.

<sup>163</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 23.

A livestock slaughter facility is defined as a facility that is used to process horses, or other livestock of a kind or class prescribed by regulation. At this stage, other livestock are not prescribed, so the time being the new requirement only applies to facilities that slaughter horses. The Bill defines livestock as alpacas, buffalo, camels, cattle, deer, emus, horses, ostriches, pigs, poultry and sheep.<sup>164</sup>

There was general support for the amendment.

A common theme amongst animal welfare organisation submissions was to suggest that CCTV should be mandatory in all livestock slaughter facilities, not just those which process horses.<sup>165</sup> For example, Animal Liberation Queensland submitted:

There is no sound animal welfare reason why horses should be included but other species such as bovines, pigs, camels, sheep, goats, chickens and other species should be excluded. They all have the ability to suffer and are all subject to potential mistreatment at slaughterhouses. We note that many slaughterhouses have already (voluntarily) started using CCTV, so it should not be a major burden to mandate CCTV in all slaughterhouses.<sup>166</sup>

In response, the DAF explained that CCTV surveillance at livestock processing establishments is emerging as a monitoring tool for animal welfare both in Australia and internationally. The use of CCTV already features in many commercial contracts and accreditation schemes in Australia. DAF advised that Woolworths, Coles and McDonalds all require CCTV monitoring in their supply agreements with abattoirs. It is also mandatory under the RSPCA Approved Farming Standards for meat chickens and pigs.<sup>167</sup>

DAF also advised that relevant industry standards already recommend in a slaughter facility that a functional video surveillance system be installed and operational to clearly monitor the several processes.<sup>168</sup>

Mandatory CCTV for all livestock slaughter facilities is part of considerations Guidelines (AAWS&G) for Livestock at Processing Facilities, but no decision has been taken at this relatively early stage of the work. The AAWS&G inform consistent state and territory legislation around Australia, and other AAWS&G on land transport of livestock, saleyards and depots, cattle and sheep have been adopted into the Animal Care and Protection Regulation 2012.<sup>169</sup>

### 7.3 Application

Some stakeholders expressed the need for clarity around the application of this part of the Bill. The Queensland Farmers' Federation and Animal Justice Party supported implementing the Martin Inquiry recommendation with respect of livestock slaughter facilities but raised concerns that some stakeholders were confused about the definition of livestock in the Bill and the extent to livestock that these provisions applied to and requested clarity. QFF submitted:

QFF supports but the wording of the livestock slaughter facilities has been interpreted differently by industry professionals. It is understood that this only applies to horses at this stage with provision to add other species slaughter facilities later. QFF is supportive of this provision if there is consultation with the different industries when/if this is extended to other species. QFF recommends a review of the wording

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<sup>164</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 24.

<sup>165</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 23; Submissions 784, 778, 890, 900.

<sup>166</sup> Animal Liberation Queensland, submission 779, p 10.

<sup>167</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 24.

<sup>168</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 24; Guidelines (AAWS&G) for Livestock at Processing Facilities.

<sup>169</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 24.

so that it is clearly interpreted by all. QFF notes that greyhounds also had a review but is not included in this amendment bill.<sup>170</sup>

The department considers the wording as drafted is clear but will work with stakeholders to clearly communicate the application of the provision.

#### 7.4 Breeder licensing schemes

Clause 47 provides a head of power to enable a standard for a breeder licensing scheme for a code of racing can be prescribed for horses. DAF confirmed that the amendment only creates a head of power, it does not actually establish or prescribe specific details relating to the scheme.

DAF advise that this amendment puts beyond any beyond doubt that such a scheme can be prescribed and implements the relevant Martin inquiry recommendations that were supported by the Queensland Government.<sup>171</sup>

The RIC will be responsible for working at a national level and with relevant stakeholders to determine the details and timing of any such scheme.<sup>172</sup>

Thoroughbred Breeders Australia and Thoroughbred Breeders Queensland did not support a breeding licence scheme. They told the committee:

- TBA and TBQA believe improving thoroughbred welfare requires a consolidated and collaborative effort. More rules or heavier penalties will not, on their own, achieve success
- The organisations both believe an effective thoroughbred welfare strategy must be “bottom up” as well as “top down”, with all participants in the industry being engaged and building a culture of improving welfare.
- TBA and TBQA are supportive of breeders having to meet welfare standards to remain as participants in this industry. However, as both the Martin Report and the TAWWG Report concluded, it is important for regulation to be national and effectively
- However, the key to an effective national welfare regime is that it be national in scope and uniformly applied.
- The welfare of thoroughbreds will be better served through the development of national standards implemented through the rules of the ASB and rules of racing.
- A state-based licensing regime may disadvantage the industry in Queensland and may therefore reduce investment locally
- It would be a far better outcome to use the mechanism that already exists and has effectively regulated breeding to tackle the challenge of welfare in the breeding sector.<sup>173</sup>

The TBQA also added that a breeding licensing scheme is unnecessary due to the high amount of regulation already, will be detrimental to the industry participation, will reduce investment in the industry and will be unwieldy and difficult to administer.<sup>174</sup>

<sup>170</sup> Queensland Farmers’ Federation, submission 1451, p 4.

<sup>171</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 20.

<sup>172</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 20.

<sup>173</sup> Thoroughbred Breeders Australia and Thoroughbred Breeders Australia (Queensland), submission 902, p 13.

<sup>174</sup> Thoroughbred Breeders Australia (Queensland), submission 677, p 2.

### **7.5 Committee comment**

The committee is satisfied that implementation of the Martin Inquiry recommendations are appropriate. The committee notes that it will be the responsibility of Racing Integrity Queensland to work at a national level and with relevant stakeholders to determine the details of any breeder licensing scheme.



## 8 Queensland Audit Office Recommendations

### 8.1 Overview

The Bill proposes to implement certain recommendations of the 2021 Queensland Audit Office (QAO) report, *Regulating animal welfare services Report 6:2021-22* (QAO Report).

The QAO report followed a request by the former Natural Resources, Agricultural Industry Development and Environment Committee for an audit on the effectiveness of the department's oversight of the RSPCA Queensland to perform animal welfare investigations on behalf of the State.

The QAO report has been referred to this committee for consideration and the committee will table a report for the consideration of the Legislative Assembly in due course.

The Bill proposes to implement all of the QAO report recommendations around strengthening the legislative framework with regards DAF's oversight of RSPCA inspectors. Specifically, the Bill amends the Animal Care and Protection Act to:

- clarify the accountabilities and accreditation of inspectors
- provide for oversight by the Director-General of DAF of recommendations from inspectors for prosecutions, and any related proposals for charge and plea negotiations, between the defendants and prosecutors before presenting the case in the court
- provide the chief executive with access to all information that inspectors collect as part of their investigations and prosecutions
- include requirements for managing conflicts of interest
- require the approval of a publicly available fee schedule of reasonable cost recovery.<sup>175</sup>

The amendments, including stakeholder feedback, are discussed below.

### 8.2 Clarifying accountabilities, accreditation and conflicts of interest of inspectors

In reviewing the Animal Care and Protection Act and associated regulations, the QAO recommended legislative changes to clarify the accountabilities and accreditation of inspectors.<sup>176</sup>

The QAO found that while the Animal Care and Protection Act has provisions for the director-general to appoint RSPCA Queensland employees as inspectors, it does not explicitly state that RSPCA inspectors are accountable to the department. As such, their accountability is left open to interpretation of their employment contracts and other employment-related legislation.<sup>177</sup>

The QAO also found that the director-general appoints RSPCA Queensland inspectors without conditions, for an indefinite term. The department does not require RSPCA Queensland to provide regular reports on inspector performance, training and/or independence declarations. The QAO stated:

This information is necessary to ensure quality, transparency, and performance of inspector functions and to ensure appointed inspectors remain suitable for their role over time. The framework is not clear on the circumstances in which an inspector's appointment may be revoked and the department does not have appropriate processes in place for when an inspector leaves the role.<sup>178</sup>

<sup>175</sup> Explanatory notes, pp 5-6.

<sup>176</sup> Explanatory notes, pp 5-6.

<sup>177</sup> Summary of Audit Findings, QAO. <https://www.qao.qld.gov.au/reports-resources/reports-parliament/regulating-animal-welfare-services#h2-4>

<sup>178</sup> Summary of Audit Findings, QAO. <https://www.qao.qld.gov.au/reports-resources/reports-parliament/regulating-animal-welfare-services#h2-4>

DAF confirmed that the Bill clarifies the accountabilities and accreditation of inspectors by including provisions which enable the Director-General to cancel or suspend an appointment if it is believed that the inspector is no longer suitable for appointment, or a condition of the appointment has not been met. The process for cancellation and suspensions must be carried out as set out in the Bill.<sup>179</sup> The Bill also allows the Director-General to require an inspector to satisfactorily complete training by regulation within a certain timeframe.<sup>180</sup>

RSPCA Queensland relies on donations and sponsors to fund most of its investigation and prosecution activities. Its reported inspectorate expense for the year ending 30 June 2020 was approximately \$4.6 million, of which the department contributed \$500,000.<sup>181</sup>

The QAO found that the Animal Care and Protection Act does not include provisions for RSPCA Queensland to implement controls to manage conflicts of interest:

This may give rise to potential and perceived conflicts of interest in the enforcement activities of RSPCA Queensland. While RSPCA Queensland may have controls and processes for managing conflicts of interest and aligning with regulatory good practice, the department has no visibility of them and therefore cannot provide independent assurance of their suitability or effectiveness.<sup>182</sup>

The Bill includes amendments which require an inspector to give notice to the director-general of all interests, pecuniary or otherwise, that the inspector has or acquires, and that conflict, or could conflict, with the proper performance of the inspector's functions.

A maximum of 20 penalty units will apply to each of the above offences.<sup>183</sup>

RSPCA Queensland submitted that it did not consider it necessary to attach a penalty to the provisions about inspector training and conflicts of interest. RSPCA Queensland informed the committee:

- If an inspector fails to complete the required training then their appointment can already be suspended or in more serious cases, revoked
- Similarly, if the inspector fails to comply with conflict of interest conditions of their appointment, then their appointment is revoked.
- There may be legitimate reasons why a trainee does not complete training (e.g. sudden diagnosis of cancer, resignation prior to completion of training) and to penalize them with penalty units would not be appropriate.<sup>184</sup>

In response, DAF advised that it is generally the preference of the Office of the Queensland Parliamentary Counsel to ensure that mandatory provisions have a penalty for failure to comply. In any case, DAF confirmed that prosecution would be the last resort when considering such matters.<sup>185</sup>

DAF also advised that should an inspector not comply with a requirement, inquiries would be made as to whether there were any extenuating circumstances. Only after these inquiries were made would DAF consider how best to address the issue, including whether a defence of reasonable excuse would be available.<sup>186</sup>

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<sup>179</sup> Clause 26, Division 1A, Animal Care and Protection Amendment Bill 2022.

<sup>180</sup> Clause 26, section 121A, Animal Care and Protection Amendment Bill 2022.

<sup>181</sup> QAO, <https://www.qao.qld.gov.au/reports-resources/reports-parliament/regulating-animal-welfare-services#h2-4>

<sup>182</sup> QAO, <https://www.qao.qld.gov.au/reports-resources/reports-parliament/regulating-animal-welfare-services#h2-4>

<sup>183</sup> Explanatory notes, p 51.

<sup>184</sup> RSPCA Queensland, submission 893, p 3.

<sup>185</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 18.

<sup>186</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, p 18.

### 8.3 Oversight of prosecutions

The QAO reported that DAF has responsibility for overseeing the RSPCA Queensland and that its inspectors are exercising their powers lawfully, equitably, and according to the principles of natural justice. While DAF has certain procedures and guidelines in place, it does not have oversight mechanisms to ensure RSPCA Queensland has implemented the procedures and guidelines.

The QAO also found that DAF has not established codes of practice for most of the animal types that RSPCA Queensland regulates and that this introduces subjectivity in interpreting compliance requirements. Furthermore, the QAO reported that DAF does not have visibility of the checks RSPCA Queensland has in place to balance its investigative powers and demonstrate a fair and just process, including applying for and executing warrants, using body-worn cameras, and seizing personal technology devices.<sup>187</sup>

The QAO found that DAF has no involvement in, or oversight of, RSPCA Queensland's decisions to prosecute people for alleged breaches of the Act, or of charge and plea negotiations between the defence and the prosecutor. The QAO stated:

As the inspectors are appointed by the director-general, these prosecutions are undertaken on behalf of the state. The department therefore has a role in ensuring all prosecutions adhere to the model litigant principles and are in the public interest. The legislation does not include provisions for the department to receive information that inspectors collect and present for prosecution.<sup>188</sup>

The QAO recommended that DAF have oversight of recommendations by inspectors for prosecutions and any related proposals for charge and plea negotiations between the defendants and prosecutors.

The Bill provides that a person must seek approval from the chief executive to progress a prosecution under the Act. This will allow the chief executive oversight of recommendations from inspectors for prosecutions. DAF advised that such restrictions are appropriate and not without precedent. The *Mining and Quarrying Safety and Health Act 1999* has a similar provision which restricts who may undertake a prosecution under that Act.<sup>189</sup>

Several inquiry stakeholders commented on this provision.

The Australian Alliance for Animals and Animals Australia Federation suggested that the provision is an inappropriate restriction on the right to initiate proceedings under the Act.<sup>190</sup> Pawsome Behavioural Solutions suggested this amendment is a backward step as it concentrates all the power in one person to prosecute.<sup>191</sup> Similarly, Farm Animal Rescue did not support the amendment.<sup>192</sup>

Others supported the amendment, including various individuals who shared their personal experiences, including concerns about prosecution and investigative processes, with the committee.<sup>193</sup>

DAF advised that the implementation of this QAO recommendation and how it will have oversight of proposals for charge and plea negotiations between the defendants and prosecutors is still being developed.

<sup>187</sup> QAO, <https://www.qao.qld.gov.au/reports-resources/reports-parliament/regulating-animal-welfare-services#h2-4>

<sup>188</sup> QAO, <https://www.qao.qld.gov.au/reports-resources/reports-parliament/regulating-animal-welfare-services#h2-4>

<sup>189</sup> Department of Agriculture and Fisheries, correspondence, 16 June 2022, pp 26- 27.

<sup>190</sup> Submissions 890 and 895.

<sup>191</sup> Pawsome Behaviour Solutions, submission 168.

<sup>192</sup> Farm Animal Rescue, submission 784.

<sup>193</sup> Submissions 787 and 881 (confidential).

### **8.3.1 Provide access to information**

QAO recommended that provide it with access to all information that inspectors collect as part of their investigations and prosecutions.<sup>194</sup>

DAF confirmed that the Bill will enable the director-general to request a copy or access to all documents and information relating to the investigation of an alleged animal welfare offence conducted by an RSPCA Queensland inspector in relation to proceedings to be commenced under the Act.

DAF confirmed that RSPCA Queensland must provide the information within 14 days of being asked. This amendment will facilitate greater oversight of the RSPCA Queensland's regulatory activities by DAF and ensure investigations performed by the RSPCA Queensland on behalf of the State follow consistent procedures and use of powers.<sup>195</sup>

### **8.3.2 Fee schedule**

QAO found that the legislation allows for, but does not define, necessary and reasonable recovery costs. These include barding and veterinarian fees. While costs for caring for animals are not payable until the courts award them to be paid, escalating costs is a factor for defendants to consider when negotiating outcomes with the prosecutor.

There is currently no requirement in the regulations for DAF to approve a schedule of reasonable fees or to make these publicly available.

DAF confirmed that the Bill requires the approval of a publicly available fee schedule of reasonable cost recovery will be developed with RSPCA Queensland. Whether these fees will be statutory or non-statutory is yet to be determined.<sup>196</sup>

## **8.4 Experiences shared by inquiry stakeholders**

Over the course of the inquiry, several submitters raised concerns relating to the RSPCA inspectorate. The committee has largely resolved to keep these submissions confidential. The committee however considered it important to provide some detail on the nature of these submissions in the interest of transparency.

Two individuals who shared their experiences with the committee were Mrs Leichelle McMahon and Ms Nicole Bourne. Their testimony is summarised below.

Mrs McMahon, a pet store owner, told the committee:

I have had numerous experiences with DAF and RSPCA Queensland and the inspectorate. ... I am probably the product of DAF's lack of oversight and accountability of the RSPCA inspectorate.

I opened my own store 13 years ago. We moved after about seven years into a bigger premises, which was 750-square metres. We had an awesome reptile room that you would walk into with a waterfall. It was the definition of Hollywood in a pet shop. We had a vet surgery on site. We would do rescue animals.

... Trying to be the best has cost me everything, but I have learnt that when an inspector comes to you and says, 'I've got a warrant,' that was not actually the case. Going back, they have gone after me hard over five years—the harassment, the bullying, upcharging me with 50 charges trying to make something stick.<sup>197</sup>

Mrs McMahon talked about the impact of this experience:

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<sup>194</sup> Queensland Audit Office, Regulating animal welfare services, Report 6: 2021-22, p 6.

<sup>195</sup> Department of Agriculture and Fisheries, correspondence, 10 June 2022, pp 8-9.

<sup>196</sup> Department of Agriculture and Fisheries, correspondence, 10 June 2022, pp 8-9.

<sup>197</sup> Public hearing transcript, Brisbane, 14 June 2022, p 51.

They ended up dropping half the charges on day one of court and proceeded for a six-day trial, which has cost me for a barrister and a lawyer in excess of \$91,000. Not only has it cost me financially; that has taken a toll on family and my mental health. Once the verdict came out it has taken a huge toll on the business, because not only did they not like the verdict; they went after me on social media. They waited until Sunday evening, when lawyers are not working and when no-one is working, at 6 pm on Facebook, Instagram, the Courier-Mail and their website. DAF did step in after four days, but after four days the damage was done, so I have been labelled all sorts of things which are untrue.<sup>198</sup>

Talking further about the use of various media by RSPCA Queensland to publicise the prosecution, Ms McMahon explained:

They went hard on me, absolutely. During the process of the trial it had hit the media just randomly on Facebook through people talking—‘She’s under investigation,’ or ‘She’s through the court. Boycott that store’— and it was after the verdict where they pretty much lost the case that they went hard on me.

On their website they created a story of pet shops where we expect better and labelled me and actually published photos that had nothing to do with the case—... They had actually given quotes to the Courier-Mail. I do believe that it used to be that under section 85 of the Animal Care and Protection Act all of the animal directive photos were supposed to be kept confidential.

Ms Bourne, a pet shop owner, told the committee a similar story:

From my experience the whole system needs an overhaul: from visiting the sites, to achieving warrants, to the raids themselves, to the inspectorate going to the media—I have the example of them going directly to the media; it went worldwide in my case—to the animal welfare directions, to the inspectorate and how they look after the animals, to the broadness of mental health and the repercussions from these, to future codes—because we do not have one and we desperately need them—and to the future overall and accreditation systems and things like that that we need.

My experience is very broad. ... We have been in the retail pet industry for 37 years now looking after broad avenues of pets and breeding them over the years and so on.<sup>199</sup>

With my case, they did a raid on the store. We had not seen them for two years. We have requested copies of the warrant request to see what evidence they had to be able to get the warrant, but they will not present it to us until a magistrate instructs them to. At the raid they said they did not want any media involved. It was a 12½-hour raid.

The following day they released a seven-minute cut video to the media. They did two ‘to cameras’. My local inspector and their media communicator did a ‘to camera’, and it was through Channel 7, Channel 9, Channel 10, the ABC plus then the paper and so on. That went around the world. I had people coming back to me from around the world to say, ‘What’s going on?’ So that happened and my business dropped 80 per cent overnight and has never rebuilt.<sup>200</sup>

## 8.5 Monitoring and managing performance against the Activity Agreement

RSPCA Queensland and DAF operate under an Activity Agreement (the Agreement) which amongst other things defines the requirements of the two agencies in the area of enforcement of the provisions of the Animal Care and Protection Act.

The QAO advised that the Agreement sets out various responsibilities of each of the parties including reporting obligations of RSPCA Queensland, a media policy, conditions of appointment for RSPCA Queensland inspectors, dealing with complaints about inspectors, seizures, the DAF’s responsibilities, and joint responsibilities. The Agreement also contains a confidentiality clause, dispute resolution provisions and grounds for termination of the Agreement.<sup>201</sup>

<sup>198</sup> Public hearing transcript, Brisbane, 14 June 2022, p 51.

<sup>199</sup> Public hearing transcript, Brisbane, 14 June 2022, p 50.

<sup>200</sup> Public hearing transcript, Brisbane, 14 June 2022, p 51.

<sup>201</sup> Queensland Audit Office, Regulating animal welfare services, Report 6: 2021-22.

The QAO found a lack of transparency and accountability within DAF for overseeing, supporting, and managing the performance of RSPCA Queensland in exercising its powers under the Act. The QAO found that DAF is not obtaining assurance that RSPCA Queensland is applying the procedures and guidelines to ensure a consistent regulatory approach to animal welfare across the state.<sup>202</sup>

The QAO advised that work is underway in reviewing the content of the Agreement and the changes. It is expected a new Agreement will be in place towards the end of 2022. The Agreement is not usually published.<sup>203</sup>

QAO recommended that DAF needs to ensure it has regular performance reporting from RSPCA Queensland and processes for evaluating RSPCA Queensland's performance. The department has not developed a financial model to determine the amount of funding needed for the services it requires RSPCA Queensland to provide.

QAO also recommended the department partners with RSPCA Queensland to:

- develop effectiveness measures and use them to assess the enforcement activities against intended outcomes
- develop and use financial reports to ensure accountability for funds the department provides.

In response, DAF confirmed that it has appointed a Director, Animal Welfare Program and a Manager, Inspectorate to provide oversight of engagement with the RSPCA Queensland inspectorate.

DAF has also established a joint steering committee with RSPCA Queensland with representation from senior management from both agencies. The steering committee meets on a regular basis and maintains a standing agenda and work plan covering key matters of inspector learning and development and appointments, prosecutions and policy matters.

DAF advised that the steering committee process has improved accountability of both agencies to deliver improvement processes, create greater collaboration and ensure emerging issues are addressed in a timely manner.

DAF is also in the process of developing a joint strategy and plan to capture its partnership with RSPCA Queensland. The strategy and plan will encompass:

- clarification of the role of the department and RSPCA Queensland in animal welfare investigations
- oversight of RSPCA Queensland inspectors and prosecutions
- establishment of minimum performance requirements for inspectors and enforcement activities
- the use of financial reports to ensure accountability of funding provided by the department to RSPCA Queensland.

DAF also advised that it has been working with RSPCA Queensland to:

- develop a quality assurance review process for animal welfare cases. The review process facilitates the assessment of investigations completed by inspectors against intended outcomes
- develop and implement a financial report process to enhance the accountability of RSPCA Queensland in using funding provided by the department.<sup>204</sup>

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<sup>202</sup> Queensland Audit Office, Regulating animal welfare services, Report 6: 2021-22.

<sup>203</sup> Department of Agriculture and Fisheries, correspondence, 10 June 2022, p 6.

<sup>204</sup> Department of Agriculture and Fisheries, correspondence, 10 June 2022, p 12.

### 8.5.1 Committee comment

The committee believes that amendments to strengthen the legislative framework with regards to the oversight of RSPCA inspectors by the Department of Agriculture and Fisheries are much needed and appropriate.

The Queensland Audit Office raised important issues in relation to DAF's relationship with the RSPCA Queensland and the committee welcomes confirmation that DAF will implement each of the QAO recommendations, many of which are implemented by this Bill.

The committee acknowledges the views of those stakeholders who were critical of the operation of the actions of RSPCA Queensland. The committee believes that implementing the Queensland Audit Office recommendations is an important first step. However, active and careful monitoring and assessment of the RSPCA Queensland's performance in meeting obligations under the Activity Agreement will be central to strengthening oversight and public expectations.

The committee will maintain a watching brief over the implementation of each of the recommendations made by the Queensland Audit Office, and will report its findings to the Legislative Assembly in due course.

The committee also notes that other jurisdictions in recent years have reclaimed investigative and prosecutorial functions back from external parties.

The committee also encourages DAF to consider designating any Activity Agreement with the RSPCA Queensland as a publicly available document, in the interest of transparency and accountability.

#### **Recommendation 3**

The committee recommends that the Department of Agriculture and Fisheries continue to implement Queensland Audit Office recommendations in full, and actively monitor and assess the performance of RSPCA Queensland in meeting its obligations under any Activity Agreement for delivering inspectorate services for the state.

## 9 Compliance with the *Legislative Standards Act 1992*

### 9.1 Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* (LSA) states that ‘fundamental legislative principles’ are the ‘principles relating to legislation that underlie a parliamentary democracy based on the rule of law’. The principles include that legislation has sufficient regard to:

- the rights and liberties of individuals
- the institution of Parliament.

The committee has examined the application of the fundamental legislative principles to the Bill. The committee brings the following to the attention of the Legislative Assembly.

### 9.2 Rights and liberties of individuals

Section 4(2)(a) of the *Legislative Standards Act 1992* requires that legislation has sufficient regard to the rights and liberties of individuals.

#### 9.2.1 Appropriate review of administrative power and right to a fair hearing

Whether legislation has sufficient regard to rights and liberties of individuals can depend on whether the legislation makes rights and liberties dependent on administrative power, only if the power is sufficiently defined and subject to appropriate review:

Depending on the seriousness of a decision and its consequences, it is generally inappropriate to provide for administrative decision-making in legislation without providing for a review process. If individual rights and liberties are in jeopardy, a merits-based review is the most appropriate type of review.<sup>205</sup>

Whether legislation has sufficient regard to rights and liberties of individuals can also depend on whether the legislation is consistent with principles of natural justice.<sup>206</sup> These principles have been developed by the common law and include:

- nothing should be done to a person that will deprive them of a right, interest, or legitimate expectation of a benefit without the person being given an adequate opportunity to present their case to the decision-maker
- the decision maker must be unbiased
- procedural fairness should be afforded to the person, including fair procedures that are appropriate and adapted to the circumstances of the particular case.<sup>207</sup>

Clauses 22, 24 and 32 of the Bill require discussion of these rights and liberties.

The explanatory notes observe that, depending on the seriousness of a decision made in the exercise of administrative power and the consequences that follow, it is generally inappropriate to provide for administrative decision-making in legislation without providing criteria for making the decision.<sup>208</sup>

In addressing **clause 22**, the explanatory notes observe that new section 93G provides a power to the chief executive to approve a cattle procedures accreditation scheme, if satisfied the scheme has provided arrangements, including procedures and controls, for certain functions listed in new section 93B.<sup>209</sup>

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<sup>205</sup> OQPC, *Fundamental Legislative Principles: The OQPC Notebook*, p 18.

<sup>206</sup> Section 4(3)(b), *Legislative Standards Act 1992* (Legislative Standards Act).

<sup>207</sup> OQPC, *Fundamental Legislative Principles: The OQPC Notebook*, p 25.

<sup>208</sup> Explanatory notes, p 12.

<sup>209</sup> Explanatory notes, p 12.



The functions do not specify any particular arrangements, as it will need to be determined on a case-by-case basis by the accreditation scheme owner and the chief executive. The documentation that accompanies the application for approval of an accreditation scheme to address the functions is expected to be extensive and quite technical. It will require examination on the chief executive's expertise and knowledge to determine whether the arrangements are sufficient. It is therefore considered to be consistent with the principle that administrative power should be sufficiently defined.

This approach is justified and necessary as the functions of the accreditation scheme are to clearly demonstrate that appropriate arrangements are in place, including ensuring the level of knowledge and skills required to perform a cattle procedure are met so that the risks to the welfare of the animal from the scheme are minimised.<sup>210</sup>

In addressing **clause 24**, the explanatory notes state that the purpose of new section 118A, which provides grounds for the chief executive to suspend or cancel an inspector's appointment,<sup>211</sup> is 'to implement a Queensland Audit Office report recommendation to provide clarity on the circumstances in which an inspector's appointment can be revoked or suspended'.<sup>212</sup>

The explanatory notes considered these provisions to be consistent with the principle that administrative power should be sufficiently defined:

This approach is justified and necessary as it is appropriate that the chief executive should have the power to suspend or revoke the appointment of an inspector if the chief executive considers an inspector has breached a condition of appointment or is no longer suitable for appointment. Further, the grounds on which an inspector's appointment can be suspended or revoked are clearly stated in the provisions.<sup>213</sup>

In addressing **clause 32**, the explanatory notes detail the applicable provisions proposed to be introduced in new chapter 6A 'Recognising offences under interstate laws', which introduce powers for the chief executive to direct a person (who is the subject of an interstate prohibition decision) to forfeit animals that are the subject of the interstate prohibition decision, or direct that the person does not possess, purchase, or otherwise acquire any animal or stated type of animal.<sup>214</sup>

The explanatory notes assert that these provisions are consistent with the principle that administrative power should be sufficiently defined:

This approach is justified and necessary, as it is considered appropriate that the chief executive should have the power to give directions to people who are the subject of interstate prohibition decision. The risks to the welfare of the animal posed by a person who is subject to an interstate order is the same regardless of where the person resides. Therefore, it is considered appropriate that a person who is subject to an interstate prohibition order should not be able to avoid the operation of the order by changing their jurisdiction. Further, the grounds on which the chief executive can make a direction are clearly stated in the provisions.<sup>215</sup>

#### 9.2.1.1 Committee comment

The committee is satisfied that clauses 22, 24 and 32 of the Bill make rights, liberties and obligations dependent on administrative power that is sufficiently defined and subject to appropriate review, and that the Bill provides for the right to a fair hearing and procedural fairness.

<sup>210</sup> Explanatory notes, pp 12-13.

<sup>211</sup> The grounds include the chief executive no longer believes that the inspector is suitable for appointment as an inspector under section 114, or the inspector has failed to comply with a condition of appointment.

<sup>212</sup> Explanatory notes, p 13.

<sup>213</sup> Explanatory notes, p 13.

<sup>214</sup> Explanatory notes, pp 13-14.

<sup>215</sup> Explanatory notes, p 14.

### 9.2.2 Right to privacy and confidentiality

Clause 22 of the Bill provides for the use of CCTV equipment to record and store recordings of movement of livestock in a facility, which may record audio and vision of individuals, including employees and invitees, who are present in a facility. Such recordings may also be used as evidence for the investigating or prosecuting an animal welfare offence.

The Bill therefore raises an issue of fundamental legislative principle relating to the rights and liberties of individuals, particularly regarding an individual's right to privacy and confidentiality.<sup>216</sup>

#### Summary of provisions

**Clause 22** inserts 'Obligations relating to livestock slaughter facilities' which includes 'Closed-circuit television equipment for livestock slaughter facilities'. These provisions require that the owner of a livestock slaughter facility must:

- install, maintain and operate closed-circuit television (CCTV) equipment at the facility that clearly records movement of livestock at specified monitoring points in the facility
- ensure that CCTV at the facility meets the requirements for the equipment prescribed by regulation, and is recording at all times when livestock is at the facility; and store each recording made in a secure place in compliance with all requirements about storage prescribed by regulation
- display signage at the facility in a way that is likely to make any person at the facility aware that CCTV equipment is installed at the facility
- keep each recording made by CCTV equipment at the facility available for inspection by an inspector, until the recording may be erased or destroyed 30 days after it is made (unless an inspector provides written notice, within 30 days after the recording is made, requiring that the recording not be erased or destroyed earlier than 1 year and 30 days after it is made)
- not allow CCTV equipment at the facility to be operated by any person other than the owner; or another person approved by the owner.<sup>217</sup>

The Bill also provides that a recording made by CCTV equipment at a facility may only be used by an inspector for the purpose of investigating or prosecuting an animal welfare offence, including using the recording as evidence of the offence.<sup>218</sup>

The explanatory notes acknowledge that the use of CCTV may potentially breach the right to privacy and confidentiality, and state that CCTV surveillance at facilities is an emerging standard that promotes better practice and increases public trust in the meat processing industry.<sup>219</sup>

The Martin Inquiry advocated the use of CCTV as a useful tool for: detecting and addressing systemic animal welfare issues that may otherwise go undetected; sets an expectation that animal welfare is a priority; holds employees to account; and provides useful information to make improvements in the way that animals are handled at the facilities. Furthermore, CCTV may act as a deterrent to poor practices and is an important tool in the investigation of offences.<sup>220</sup>

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<sup>216</sup> Section 4(2)(a), Legislative Standards Act.

<sup>217</sup> New section 93X, Animal Care and Protection Amendment Bill 2022.

<sup>218</sup> New section 93T - 93Y, Animal Care and Protection Amendment Bill 2022.

<sup>219</sup> Explanatory notes, p 20.

<sup>220</sup> Explanatory notes, p 20.

The explanatory notes identify the following safeguards to protect the privacy of individuals:

- new requirement for signage at the facility to ensure persons are aware that CCTV equipment is installed
- the new limitation providing that the operation of CCTV equipment be restricted to the owner or a person authorised by the owner
- the existing prohibition against the use and disclosure of confidential information that may be gained by a person in administering or performing a function under the Act, unless expressly authorised
- the new limitation providing that a recording may only be used by an inspector for the purposes of investigating or prosecuting an animal welfare offence,<sup>221</sup> which the explanatory notes considers to restrict the use of the recordings as evidence being used for a derivative use such as for investigating offences under other legislation
- the requirement that information be retained in accordance with the department's record-keeping security obligations.<sup>222</sup>

#### 9.2.2.1 *Committee comment*

The committee is satisfied that sufficient regard has been had for the privacy of individuals, noting the reasons for the potential breach in privacy and confidentiality and the safeguards provided.

### 9.3 *Proportion and relevance of penalties*

The Bill amends several existing offences and creates several new offences. Detail on the various provisions are set out below.

Whether legislation has sufficient regard to rights and liberties of individuals depends on whether penalties and other consequences imposed by legislation are proportionate and relevant to the actions to which the consequences relate. As the Office of the Queensland Parliamentary Counsel (OQPC) explains:

In the context of supporting fundamental legislative principles, the desirable attitude should be to maximise the reasonableness, appropriateness and proportionality of the legislative provisions devised to give effect to policy. ... Legislation should provide a higher penalty for an offence of greater seriousness than for a lesser offence. Penalties within legislation should be consistent with each other.<sup>223</sup>

**Clause 5** increases the existing maximum penalty for breach of duty of care to an animal by a person in charge of the animal from 300 penalty units (currently, \$41,355) or 1 year's imprisonment, to 2,000 penalty units (currently, \$275,000; from 1 July, \$287,500) or 3 years imprisonment, in instances where the breach causes death, serious deformity, serious disability or prolonged suffering of the animal.<sup>224</sup>

This new offence is stated to be 'a reflection of the community's expectation that offences that subject animals to gross neglect should be subject to higher penalties'.<sup>225</sup>

The maximum penalty is justified because of the seriousness of the offence, and it is consistent with the cruelty offence under section 18 (Animal cruelty prohibited), which provides for the equivalent maximum penalty.

<sup>221</sup> New section 93Y, Animal Care and Protection Amendment Bill 2022.

<sup>222</sup> New sections 93V, 93X and 93Y Animal Care and Protection Amendment Bill 2022; Explanatory notes, p 20.

<sup>223</sup> OQPC, *Fundamental Legislative Principles: The OQPC Notebook*, p 120.

<sup>224</sup> New section 17(2), Animal Care and Protection Amendment Bill 2022.

<sup>225</sup> Explanatory notes, p 27.

The maximum penalty of 2,000 penalty units is lower than the penalty of 5,000 penalty units imposed on an individual in section 6 of the New South Wales Prevention of Cruelty to Animals Act 1979 for aggravated cruelty to animals but is on the higher end of the monetary penalty in other jurisdictions.

The 3-year prison sentence is comparable with prison sentences for aggravated cruelty in other Australian jurisdictions and in New Zealand, which range from 2 years to 5 years.<sup>226</sup>

**Clauses 9, 10, 12, 13, 14, 21, 22, 25, 32, 48**

The Bill contains a range of amended and new penalties, including offence provisions which:

- no longer allow a lay person to dock a dog's tail in a prescribed way, instead only permitting it to be docked in the interests of the dog's welfare, and only by a veterinary surgeon – retaining a maximum of 100 penalty units (currently, \$13,785; from 1 July, \$14,375)<sup>227</sup>
- prohibit a person from performing particular cattle procedures, unless they are a veterinarian or an accredited person under an approved cattle procedures accreditation scheme - maximum penalty for each offence of 300 penalty units (currently, \$41,355; from 1 July, \$43,125) or 1 year's imprisonment<sup>228</sup>
- require a person to keep the veterinary surgeon's certificate given by a person supplying an animal that has had a regulated procedure performed on it, and make the certificate available for inspection on request by an inspector - maximum penalty for each offence of 150 penalty units (currently, \$20,677.50; from 1 July, \$21,562.50) or 1 year's imprisonment<sup>229</sup>
- prohibit the transportation of an unsecured dog on the back of the tray of a vehicle, or a trailer attached to a vehicle, except for dogs assisting in the movement of livestock, and transporting a dog whose body other than its head is protruding from inside a vehicle - maximum penalty for each offence of 60 penalty units (currently, \$8,271.00; from 1 July, \$8,625.00)<sup>230</sup>
- prohibit possession, and use, of a prong collar or another prescribed restraint device, or the possession, and use, of a prescribed net - maximum penalty for the possession offences of 30 penalty units (currently, \$4,135.50; from 1 July, \$4,312.50) and for the use offences of 100 penalty units (currently, \$13,785.00; from 1 July, \$14,375.00), respectively,<sup>231</sup>
- prohibit a person from applying extreme heat or cold, acid or caustic chemicals to the leg of a horse or a dog for the purposes of causing tissue damage or scar tissue around the tendons and ligaments of the leg - maximum penalty of 300 penalty units (currently, \$41,355; from 1 July, \$43,125) or 1 year's imprisonment<sup>232</sup>
- require a holder of a registration to use an animal for a scientific purpose, to notify the chief executive if a disqualifying event has happened, or there has been a change in any material particular in the registration information – maximum penalty of 50 penalty units (currently, \$6,892.50; from 1 July, \$7,187.50)<sup>233</sup>

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<sup>226</sup> Explanatory notes, pp 27-28.

<sup>227</sup> New section 24, Animal Care and Protection Amendment Bill 2022.

<sup>228</sup> New section 27A, Animal Care and Protection Amendment Bill 2022.

<sup>229</sup> New sections 28, 29 and 29A, Animal Care and Protection Amendment Bill 2022.

<sup>230</sup> New section 33, Animal Care and Protection Amendment Bill 2022.

<sup>231</sup> New sections 37A and 37B, Animal Care and Protection Amendment Bill 2022.

<sup>232</sup> New section 37C, Animal Care and Protection Amendment Bill 2022.

<sup>233</sup> New section 87A, Animal Care and Protection Amendment Bill 2022.

- require a person who supplies a horse to a facility to give the specified information - maximum penalty of 200 penalty units (currently, \$27,570; from 1 July, \$28,750).<sup>234</sup>
- require the owner of a facility to: keep the specified records, unless there is a reasonable excuse, and keep those records for the specified time - maximum penalty for each offence of 200 units;<sup>235</sup> and report the specified information – maximum penalty of 300 penalty units (currently, \$41,355; from 1 July, \$43,125)<sup>236</sup>
- provide for CCTV equipment requirements, which include numerous new offences, whose maximum penalties are constituted by various offences attracting either 30 (currently \$4,135.50; and from 1 July will be \$4,312.50) or 300 penalty units (currently, \$41,355; from 1 July, \$43,125)
- require a person, whose appointment as an inspector is suspended, to return their identity card to the chief executive;<sup>237</sup> require an inspector to complete the training prescribed by regulation within the period required by regulation; and require an inspector to give notice to the chief executive of all interests, pecuniary or otherwise, that the inspector has, or acquires, and that conflict, or could conflict, with the proper performance of the inspector's functions - maximum penalty for each offence of 20 penalty units (currently, \$2,757; from 1 July, \$2,875)<sup>238</sup>
- provide for the chief executive to give a direction to a person who is subject to an interstate prohibition decision, which may direct the person to: forfeit an animal that is the subject of such an order, or to not acquire a particular or stated type of animal; and require a person subject to the direction to comply with the direction, unless they have a reasonable excuse – maximum penalty of 300 penalty units (currently, \$41,355; from 1 July, \$43,125) or 1 year's imprisonment<sup>239</sup>

The explanatory notes state that a considered and justified approach was undertaken when determining the maximum penalty for each new offence provision,<sup>240</sup> and:

Each proposed maximum penalty was assessed to align with similar offence provisions within the same legislation, other Queensland legislation, and equivalent offences in other jurisdictions, and to be proportionate to the seriousness of the offence.<sup>241</sup>

The explanatory notes set out a range of justifications for the inclusion of the various maximum penalties and any potential breach of individual rights and liberties, including that the penalties:

- reflect community expectations
- reflect the seriousness of the offence

<sup>234</sup> Clause 48 inserts new s 210A 'Reporting requirement for supplier of horses to livestock slaughter facilities', *Racing Integrity Act 2016*.

<sup>235</sup> Clause 48 inserts new s 210B 'Records to be kept by owner of livestock slaughter facility', *Racing Integrity Act 2016*.

<sup>236</sup> Clause 48 inserts new s 210C 'Reporting obligation of owner of livestock slaughter facility', *Racing Integrity Act 2016*.

<sup>237</sup> The identity card must be returned within 14 days after the person/inspector is given notice of the decision to suspend.

<sup>238</sup> Clause 25 amends s 121 'Return of identity card'; and clause 26 inserts new ss 121A 'Training and reporting obligations' and 121B 'Conflicts of interests', respectively.

<sup>239</sup> Clause 32 inserts new chapter 6A 'Recognising offences under interstate laws', s 173D 'Compliance with direction'.

<sup>240</sup> Explanatory notes, p 27.

<sup>241</sup> Explanatory notes, p 27.

- reflect the risks to the welfare of an animal
- act as a deterrent to certain conduct
- ensure accountability, openness and responsiveness.

**Clause 43** amends schedule 2 ‘Current serious offences’ of the *Disability Services Act 2006* (DSA) to insert a new entry under item 1 to prescribe the offence of aggravated breach of duty of care (under the Act) as a serious offence for the disability worker screening system under the DSA.<sup>242</sup>

The explanatory notes identify **clause 43** as a potential departure from fundamental legislative principle with respect to the clause’s restriction on ordinary activities, as the clause prevents an affected person from working in particular roles with people with disability, other than where exceptional circumstances are established.

The clause can also be considered with respect to offences and penalties and their impact on the rights and liberties of individuals. The explanatory notes relevantly comment on the proposed amendment of the current serious offences listed in Schedule 2 of the DSA:

This potential breach is justified on the grounds that a charge or conviction for the new offence is directly relevant to whether a person poses an unacceptable risk of harm to people with disability.

The new offence is likely to arise in comparable circumstances to the existing offence of animal cruelty under the ACPA [Act], which is already prescribed as a serious offence for the disability worker screening system and would evince the same serious underlying risk of harm to people with disability. Further, the new offence is treated as being of equivalent seriousness to that existing offence, through the imposition of the same maximum penalty.

Having regard to these considerations, giving a charge or conviction for the aggravated breach of duty offence the same effect as a charge or conviction for the animal cruelty offence for the purpose of the disability worker screening system is a proportionate response to the risk involved.<sup>243</sup>

The explanatory notes detail various safeguards in place under the disability worker screening system, including processes that incorporate natural justice, which appropriately mitigate the potential departure from fundamental legislative principle.<sup>244</sup>

#### 9.3.1.1 Committee comment

The committee is satisfied that offences and penalty provisions are proportionate and consistent, and have sufficient regards to the rights of individuals.

### **9.3.2 Reversal of onus of proof and immunity from proceedings**

Whether legislation has sufficient regard to rights and liberties of individuals depends on whether, for example, the legislation does not reverse the onus of proof in criminal proceedings without adequate justification.<sup>245</sup>

Legislation should not reverse the onus of proof in criminal matters, and it should not provide that it is the responsibility of an alleged offender in court proceedings to prove innocence.<sup>246</sup>

Generally, for a reversal to be justified, the relevant fact must be something inherently impractical to test by alternative evidential means and the defendant would be particularly well positioned to disprove guilt.<sup>247</sup>

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<sup>242</sup> Explanatory notes, p 23.

<sup>243</sup> Explanatory notes, p 23.

<sup>244</sup> Explanatory notes, pp 23-24.

<sup>245</sup> Section 4(3)(d), Legislative Standards Act 1992.

<sup>246</sup> OQPC, *Fundamental Legislative Principles: The OQPC Notebook*, p 36.

<sup>247</sup> OQPC, *Fundamental Legislative Principles: The OQPC Notebook*, p 36.

Whether legislation has sufficient regard to rights and liberties of individuals can depend on whether the legislation does not confer immunity from proceeding or prosecution without adequate justification.<sup>248</sup>

One of the fundamental principles of law is that everyone is equal before the law, and each person should therefore be fully liable for their acts or omissions. Notwithstanding that, the conferral of immunity is appropriate in certain situations.<sup>249</sup>

**Clause 15** provides a defence for an offence involving the killing of an animal by a veterinary surgeon, in circumstances where the veterinary surgeon: believed that the animal was so diseased or severely injured that it would have been cruel to keep it alive; did the act in a humane way; and took reasonable steps to identify and contact the person in charge of the animal before doing the act.

**Clause 34** provides protection from civil and criminal liability, and protection from liability under an administrative process, for a veterinary surgeon who has euthanased an animal under section 41B.<sup>250</sup>

The explanatory notes observe that, under new section 41B, a veterinary surgeon who performed the act of killing would bear the onus of proof:

... that they believed that the animal was so diseased or severely injured, or in such poor physical or psychological condition that it would have been cruel to keep it alive, and the act was done in a humane way. The veterinary surgeon would also have to provide details of the reasonable steps that were taken to determine if the person in charge of the animal could be found.<sup>251</sup>

The explanatory notes explicitly seek to justify the reversal of the onus of proof, stating:

... the relevant facts of the offences involve matters which would be within the defendant's knowledge, and/or on which evidence would be available to them. It is appropriate for a defendant to provide the necessary evidence of the defence.<sup>252</sup>

According to the explanatory notes, a significant number of veterinary practitioners expressed a reluctance to euthanase an animal without some legislative authority, in a situation where the owner or person in charge of the animal is unable to be found, resulting in some being conflicted about their ethical obligations and authorising environment.

In that regard, the explanatory notes observe that the Royal Society for the Prevention of Cruelty to Animals (RSPCA) had provided significant evidence that some veterinary practitioners are diverting seriously ill animals to the RSPCA via the rescuer, veterinary nurses, or the RSPCA ambulance, leading to undesirable outcomes.<sup>253</sup>

Although not addressing any potential breach of fundamental legislative principle, the explanatory notes note the circumstances in which the Bill protects veterinary surgeons from liability by providing an offence exemption, which will also reduce the suffering of untreated animals which would otherwise be prolonged or exacerbated by the extended journey to the RSPCA:

<sup>248</sup> Section 4(3)(h), Legislative Standards Act 1992.

<sup>249</sup> OQPC, *Fundamental Legislative Principles: The OQPC Notebook*, p 64; Scrutiny of Legislation Committee, *Alert Digest 1 of 1998*, p 5, para 1.25.

<sup>250</sup> New section 215AA, Animal Care and Protection Amendment Bill 2022.

<sup>251</sup> Explanatory notes, p 15.

<sup>252</sup> Explanatory notes, p 15.

<sup>253</sup> Such as death of the animal in transit or instances where animals were in such pain when they arrived at the RSPCA that it was cruel to keep them alive (and transport them) and were immediately euthanased (explanatory notes, p 17).

The circumstances in which a veterinary surgeon may euthanase an animal are limited to when the veterinarian believes the animal is so diseased or severely injured or is in such poor physical or psychological condition that it is cruel to keep it alive.<sup>254</sup>

#### **9.3.2.1 *Committee comment***

The committee is satisfied any breach of fundamental legislative principle in these provisions is sufficiently justified.

#### **9.3.3 Reversal of onus of proof**

The Bill contains various provisions that require a person to undertake, or prohibit a person from undertaking, certain actions, unless the person has a reasonable excuse, including:

- prohibiting the possession of a ‘prong collar’ (as defined) or another ‘restraint device’ (as defined) prescribed by regulation, and prohibits the use of such devices on an animal<sup>255</sup>
- prohibiting the possession, and use, of ‘prohibited nets’ prescribed by regulation<sup>256</sup>
- requiring the owner of a facility to keep records about each branded animal that arrives at the facility.<sup>257</sup>

The explanatory notes state that, under these sections, a person would bear the onus of proof to show that they had a reasonable excuse to be in possession of the prohibited items, or why they have not kept the prescribed records.<sup>258</sup>

The explanatory notes seek to justify the reversal of the onus of proof, asserting that:

... because the relevant facts of the offences involve matters which would be within the defendant’s knowledge, and/or on which evidence would be available to them. It is appropriate for a defendant to provide the necessary evidence of the reasonable excuse.<sup>259</sup>

#### **9.3.3.1 *Committee comment***

The committee is satisfied that any breach of fundamental legislative principle in these provisions is sufficiently justified.

#### **9.3.4 Power of entry**

Whether legislation has sufficient regard to rights and liberties of individuals depends on whether the legislation confers power to enter premises, and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer.<sup>260</sup>

This principle supports a long-established rule of common law that protects the property of citizens:

Power to enter premises should generally be permitted only with the occupier’s consent or under a warrant issued by a judge or magistrate. Strict adherence to the principle may not be required if the premises are business premises operating under a licence or premises of a public authority ...

This FLP [fundamental legislative principle] issue frequently arises in the context of inspectorial powers. Fundamental legislative principles are particularly important when powers of inspectors and similar

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<sup>254</sup> Explanatory notes, p 17.

<sup>255</sup> Clause 14 inserts new Chapter 3, Part 5, Divisions 5 to 7, s 37A ‘Possession or use of prohibited devices’.

<sup>256</sup> Clause 14 inserts new Chapter 3, Part 5, Divisions 5 to 7, s 37B ‘Possession or use of prohibited nets’.

<sup>257</sup> Clause 48 inserts new Chapter 5A, s 210B ‘Records to be kept by livestock slaughter facility’, into the *Racing Integrity Act 2016*.

<sup>258</sup> Explanatory notes, p 15.

<sup>259</sup> Explanatory notes, p 15.

<sup>260</sup> Section 4(3)(e), Legislative Standards Act.



officials are prescribed in legislation because these powers are very likely to interfere directly with the rights and liberties of individuals.<sup>261</sup>

Parliamentary committees have commented adversely on powers of entry if appropriate safeguards are not provided.<sup>262</sup>

**Clauses 27 and 28** amend sections 122 and 123 of the Act, respectively.<sup>263</sup>

**Clause 27** gives inspectors a power of entry to a facility, without a warrant or consent of the occupier of the facility, when entry is made during normal business hours and a horse is present at the facility. The clause also amends the Act to clarify that an animal may be abandoned by a person in charge of the animal, regardless of whether the animal is provided with food or water by a person who is not the person in charge of the animal. In that regard, the clause clarifies the existing provision that an inspector may enter a place without a warrant, if the inspector reasonably suspects an animal at the place has been abandoned.<sup>264</sup>

**Clause 28** extends existing powers of entry to provide an additional limited power for an inspector to enter and stay in a non-residential part of a place while it is reasonably necessary to provide food or water to the animal, or disentangle it, or move it to an area within the place that protects the animal from the extreme weather conditions or an aggressive animal.<sup>265</sup>

The explanatory notes state that the additional entry power for inspectors to enter and stay at a horse slaughter facility during normal business hours (section 122) is limited to when there are horses at the facility:

The entry power is justified because an inspector should be able to be present at a livestock slaughter facility to monitor compliance with the ACPA [Act] and the compulsory codes of practice while horses are being unloaded, handled, and slaughtered.

The entry power was found to be necessary by the Martin Inquiry because there is a lack of sufficient oversight within an export abattoir, which poses significant risks to the welfare of animals, and therefore it is necessary in that environment for inspectors to have an entry power into the facilities to check compliance.

The inspector's attendance while horses are processed will provide the community and industry with greater confidence that animal welfare risks are being proactively managed and regulated. The impact on the rights of the owner of the facility by this provision is limited by the fact that the entry is only allowed during normal business hours, and when horses are at the facility.<sup>266</sup>

The explanatory notes state that the additional limited power for an inspector to enter and stay in a place (section 123) has appropriate safeguards, which limit entry powers to non-residential parts of the premises and only for a period necessary, which is limited to moving an animal to a sheltered area or away from another aggressive animal:

When the inspector exercises this power, they must leave a notice identifying the inspector, the action taken, and when the action was taken before leaving the place. This information will enable the person

<sup>261</sup> OQPC, *Fundamental Legislative Principles: The OQPC Notebook*, p 45.

<sup>262</sup> OQPC, *Fundamental Legislative Principles: The OQPC Notebook*, p 46.

<sup>263</sup> Section 122 'Power of Entry' and s 123 'Limited entry power to provide relief to animal'.

<sup>264</sup> Explanatory notes, p 52.

<sup>265</sup> Clause 28 amends s 123(1) and (2) of the Act, and inserts new s 123(5); the clause does not impact the existing requirement that the person in charge of the animal that is exposed or threatened is not, or is apparently not, present at the place.

<sup>266</sup> Explanatory notes, p 16.

in charge of the animal to take action if the person considers that the action taken by the inspector was unreasonable.

The additional entry powers are justified to assist animals because providing a suitable environment for an animal is an important consideration to maintain the health and wellbeing of an animal, including shelter during an extended period of extreme temperatures, and particularly in respect to very young or old animals, or animals that are in poor condition or sick.

A suitable environment is also important for an animal to feel safe and to escape from any other animal that is being aggressive towards it. The lack of protection can pose the risk of physical trauma, (e.g., wounds, lacerations) to an animal, as well as psychological trauma, such as stress or anxiety.<sup>267</sup>

#### **9.3.4.1 *Committee Comment***

The committee is satisfied that the above provisions and the breach of fundamental legislative principle through the infringements on the rights and liberties of individuals that are involved, are justified in the circumstances.

#### **9.3.5 Right to conduct business without interference**

Whether legislation has sufficient regard to rights and liberties of individuals depends on whether the legislation unduly restricts ordinary activities, without sufficient justification.<sup>268</sup>

The most general concept of liberty logically requires that an activity should be lawful unless for a sufficient reason it is declared unlawful by an appropriate authority. Many activities are protected under the common law ... but even if not specifically protected under the common law, the principle is the same. ... Regulation of business, although prolific, is an intervention in a right to conduct business in the way in which the persons involved consider appropriate.<sup>269</sup>

The explanatory notes identify clauses, including the following, as relevant to this fundamental legislative principle:

- **clause 10** 'Spaying cattle' and 'Testing for pregnancy in cattle'<sup>270</sup>
- **clause 12** 'Restriction on supplying debarked dog', 'Other restrictions', 'Restriction on persons supplied animals that have undergone regulated procedure'
- **clause 22** 'Obligations relating to livestock slaughter facilities', 'Closed-circuit television equipment for livestock slaughter facilities'
- **clause 48** 'Reporting and recording requirements for livestock slaughter facilities', 'Reporting requirements for supplier of horses to livestock slaughter facilities', 'Records to be kept by owner of livestock slaughter facility' and 'Reporting obligation of owner of livestock slaughter facility'.

In addressing **clause 10**, the explanatory notes observe that allowing accredited persons to perform cattle procedures will provide producers with a greater choice of service providers, particularly in remote areas of the State where there are significant travel costs for veterinarians. The explanatory notes continue:

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<sup>267</sup> Explanatory notes, pp 16-17.

<sup>268</sup> Section 4(2)(a), Legislative Standards Act 1992.

<sup>269</sup> OQPC, *Fundamental Legislative Principles: The OQPC Notebook*, p 118.

<sup>270</sup> See the 'Proportion and relevance of penalties' section of this brief for further detail on these new offence provisions.

However, the right to conduct business in these circumstances must be balanced with ensuring that the risks to the welfare of an animal undergoing the procedures are minimised, and the requirement for a lay person to be accredited to perform these procedures is justified.<sup>271</sup>

In addressing **clause 12**, the explanatory notes identify the potential fundamental legislative principle issue as whether requiring a person to retain the veterinary surgeon's certificate while they are still the person in charge of the animal is unduly restricting a person's ordinary activity without sufficient justification:

The restriction on any business involving the supply of an animal that has undergone a regulated procedure is justified because it will act as a deterrent to persons requesting animals that have undergone a regulated procedure and a person responding to a demand by continuing to perform such procedures other than for welfare reasons. For example, seeking dogs that have undergone debarking operations to prevent nuisance barking is still occurring.

A range of excuses has been offered by persons in charge of animals for not producing a certificate to an inspector ... As a result, the person who supplied the animal cannot be identified or located.

The community generally regards these procedures as being acceptable only if they are carried out in a humane way, and only if they are being done in the interests of the animal's welfare. The requirement to retain the certificate will demonstrate to the community that animal welfare risks are being appropriately managed.<sup>272</sup>

In addressing **clause 22**, the explanatory notes state that the intervention in a person's right to conduct business in the way they want is considered appropriate because a facility is a high-risk environment for the welfare of animals:

The use of CCTV at livestock slaughter facilities is an emerging standard that promotes better practice and increased public trust in the livestock processing industry.

Domestic retailers and international trading partners are increasingly focusing on animal welfare as an important consideration of product quality. The use of CCTV to assist in the monitoring of animal welfare will provide reassurance to the community and trading partners that animal welfare risks are being appropriately regulated and managed.<sup>273</sup>

In addressing **clause 48**, the explanatory notes seek to justify the reporting requirements because they implement a finding of the Martin Inquiry that the use of facilities as an end-of-life option for retired racehorses must be a last resort:

This reporting requirement was one recommendation to increase the success of rehoming retired animals. The information on the date a supplier acquired the horse and the date it was delivered to the abattoir is useful to assist the QRIC [Queensland Racing Integrity Commission] to verify whether retirement and rehoming information has been correctly reported.

The Martin Inquiry found that the management of racing horses as a disposable commodity is unethical and is not aligned with the expectations of the community that the racing industry relies on for support. The Inquiry also found that the community would expect the racing industry to take responsibility for attempting to rehome all horses in the first transition out of racing and breeding. This requires the owner of a retired racehorse to make a proper effort to rehome the horse before seeking other alternatives. The reporting requirement assists in ensuring that proper efforts have been made to rehome a horse before a decision is made to send it to a slaughter facility.<sup>274</sup>

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<sup>271</sup> Explanatory notes, p 21.

<sup>272</sup> Explanatory notes, pp 21-22.

<sup>273</sup> Explanatory notes, p 22.

<sup>274</sup> Explanatory notes, p 24.

#### *9.3.5.1 Committee comment*

The committee is satisfied that any breach of fundamental legislative principle in these provisions is sufficiently justified.

#### **9.3.6 Natural justice**

Whether legislation has sufficient regard to rights and liberties of individuals depends on whether the legislation is consistent with principles of natural justice.<sup>275</sup> These principles are summarised above.

Clause 42 amends section 48 'When a person is engaged to carry out State disability work' of the DSA to correct a cross-reference, and is characterised by the explanatory notes as a minor, technical amendment to clarify the original intent of section 48(1)(c) of the DSA, as inserted by the Disability and Other Legislation (Worker Screening) Amendment Bill 2020.<sup>276</sup>

In addressing clause 42, the explanatory notes identify a range of safeguards in place under the DSA to ensure natural justice for persons for whom an adverse decision is to be (or has been) made, and state that:

These safeguards ensure affected persons have a reasonable opportunity to raise their particular circumstances and have those circumstances taken appropriately into account in the decision-making process. As such, they are sufficient to mitigate any FLP [fundamental legislative principle] issues associated with this minor and technical amendment to correct the screening requirements under the DSA, in accordance with the original intent.<sup>277</sup>

#### *9.3.6.1 Committee comment*

The committee is satisfied any breach of fundamental legislative principle in these provisions is sufficiently justified.

#### **9.3.7 Ordinary activities**

As discussed above, whether legislation has sufficient regard to rights and liberties of individuals depends on whether, for example, the legislation unduly restricts ordinary activities, without sufficient justification.<sup>278</sup>

The explanatory notes identify the following clauses as relevant to this fundamental legislative principle: clauses 13, 14 and 16.

In addressing **clause 13**, the explanatory notes assert that the new provisions are justified to protect the welfare of dogs because thousands of dogs die or are injured each year while unsecured on a tray of a vehicle, or on a trailer attached to a vehicle.

It is considered reasonable to potentially interfere with ordinary activities in these circumstances by requiring that a dog be secured when being transported on or in a vehicle.

Most other jurisdictions specifically prohibit a person transporting dogs unsecured on the back of vehicles or in a vehicle in a way that prevents the dog from falling or escaping from the vehicle.<sup>279</sup>

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<sup>275</sup> Section 4(3)(b), Legislative Standards Act 1992.

<sup>276</sup> Explanatory notes, p 22. The amendment clarifies the intent that members of all Ministerial advisory committees established under section 222 of the Disability Services Act 2006, rather than just a committee established under subsection 222(a), are required to hold a Queensland disability worker screening clearance.

<sup>277</sup> Explanatory notes, pp 22-23.

<sup>278</sup> Section 4(2)(a), Legislative Standards Act 1992.

<sup>279</sup> Explanatory notes, p 25.

The explanatory notes seek to justify the provisions of **clause 14**, which impose restrictions on the use of prong collars and other devices, stating that they are considered inappropriate as a training aid, because they cause pain and fear in dogs which is used as a punishment: ‘If used incorrectly, prong collars can also cause physical injuries, such as bruising, scratching, and punctures to the skin of the dog’.<sup>280</sup>

The explanatory notes further seek to justify the new prohibited nets provisions of **clause 14**, making reference to community expectations and the adverse impact some types of netting has on the welfare of animals, in particular native animals.<sup>281</sup>

In addressing the new firing or blistering on horses and dogs provisions in **clause 14**, the explanatory notes state that prohibiting these practices is justified because of the adverse impact on the welfare of animals that undergo these procedures:

These procedures have long been considered by veterinarians and horse owners to cause unnecessary pain, and to be an obsolete practice, as there is no scientific evidence to support a belief that it provides any benefits. The Australian Rules of Thoroughbred and Harness Racing also do not support the practice, and the procedure has been prohibited in other jurisdictions.

Prohibiting inappropriate practices, such as the painful practice of firing or blistering of a horse or dog, meets community expectations in relation to reducing and regulating animal welfare risks.<sup>282</sup>

In addressing **clause 16**, the explanatory notes seek to justify the new exclusion from the offence provision on the basis that:

... a poison which contains carbon disulfide and phosphorus is toxic to a wide range of bird and animal species, is generally slow acting and inhumane, and causes a long and painful death. It can cause secondary poisoning from the vomit or carcasses of poisoned animals. The poison has been used in Australia to control feral pig populations, but more humane alternatives are now available for controlling pigs.<sup>283</sup>

#### 9.3.7.1 *Committee comment*

The committee is satisfied any breach of fundamental legislative principle in these provisions is sufficiently justified.

## 9.4 Institution of Parliament

Section 4(2)(b) of the *Legislative Standards Act 1992* requires legislation to have sufficient regard to the institution of Parliament.

### 9.4.1 Delegation of legislative power

Section 4(4)(a) of the *Legislative Standards Act 1992* provides that whether a Bill has sufficient regard to the institution of parliament depends on whether the Bill, for example, allows the delegation of legislative power only in appropriate cases and to appropriate persons. This question is concerned with the level at which delegated legislative power is used.

Generally, the greater the level of political interference with individual rights and liberties, or the institution of Parliament, the greater the likelihood that the power should be prescribed in an Act of Parliament and not delegated below Parliament.<sup>284</sup>

<sup>280</sup> Explanatory notes, p 25.

<sup>281</sup> Explanatory notes, p 25.

<sup>282</sup> Explanatory Notes, p 26.

<sup>283</sup> Explanatory notes, p 26-27.

<sup>284</sup> OQPC, *Fundamental Legislative Principles: The OQPC Notebook*, p 145.

According to the explanatory notes, the regulation-making power in the Bill is limited to well-defined circumstances, ensuring that the Act and the *Racing Integrity Act 2016* are able to quickly respond to changes that impact on animal welfare:

The amendments are considered justified as the amendment to the authorising law clearly provides the power for the regulation to be made, the regulation will be subject to sufficient legislative scrutiny as a disallowance legislative instrument, and the amendments are consistent with the purposes of the Act.<sup>285</sup>

The Bill contains numerous provisions allowing for various matters to be prescribed by regulation, including providing for powers to prescribe:

- another restraint device that will be a ‘prohibited device’<sup>286</sup>
- a ‘prohibited net’<sup>287</sup>
- other livestock of a kind or class that will form part of the definition of ‘livestock slaughter facility’<sup>288</sup>
- the minimum requirements for the CCTV equipment at a facility, all requirements about maintaining the equipment, and the storage requirements relating to the storing of each recording made by CCTV equipment at a facility<sup>289</sup>
- the training an inspector must satisfactorily complete, and the period within which such training must be undertaken.<sup>290</sup>

The Bill also amends, and relocates within the Act, the power to make a particular regulation.<sup>291</sup>

The explanatory notes address each of the instances where the Bill provides that a matter will be prescribed by regulation, and includes a range of explanations, including that:

- due to continuous developments in collars and devices for animals, some existing and new collars and devices become unacceptable to the community, and other collars and devices may need to be prohibited on the basis of scientific evidence if they are found to cause harm, injury, or fear to an animal<sup>292</sup>
- the use of some netting on fruit trees pose an unacceptable risk to wildlife<sup>293</sup>
- there is a need for flexibility to adopt CCTV requirements and reporting and record-keeping obligations, as community expectations about the need for these requirements in other slaughter facilities evolves<sup>294</sup>

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<sup>285</sup> Explanatory notes, pp 17-18.

<sup>286</sup> Clause 14 inserts new s 37A(1) ‘Possession or use of prohibited devices’.

<sup>287</sup> Clause 14 inserts new s 37B(1) ‘Possession or use of prohibited nets’.

<sup>288</sup> Clause 22 inserts new Chapter 4B ‘Obligations relating to livestock slaughter facilities’, s 93S(b) ‘Definitions for chapter’.

<sup>289</sup> Clause 22 inserts new Chapter 4B ‘Obligations relating to livestock slaughter facilities’, s 93U(a) and (b) ‘Requirements for closed-circuit television equipment’.

<sup>290</sup> Clause 26 inserts new s 121A ‘Training’.

<sup>291</sup> Clause 3 amends s 11 ‘What is an *animal*’. The power to make a regulation to prescribe a live invertebrate creature of a species, or a stage of the life cycle of a species, from the class of Malacostraca as an animal was previously provided for in the former section 11. It has been relocated into a separate paragraph (e) distinct from the class Cephalopoda: explanatory notes, p 18.

<sup>292</sup> Explanatory notes, p 18.

<sup>293</sup> Explanatory notes, p 18.

<sup>294</sup> Explanatory notes, p 18.

- CCTV surveillance at facilities is an emerging standard which involves equipment that is subject to changing technology, which may require a responsive change to the requirements<sup>295</sup>
- the application of CCTV surveillance across all facilities is being considered as part of the development of new national 'Australian Animal Welfare Standards and Guidelines for Livestock Welfare at Processing Facilities'<sup>296</sup>
- it would be impractical to list all the types of training that an inspector may be required to undertake in the Act, because the type of training cannot be anticipated with changes to compliance and investigation practices.<sup>297</sup>

#### *9.4.1.1 Committee comment*

The committee is satisfied that the delegation of legislative power in the Bill is appropriate, such that the Bill has sufficient regard for the institution of Parliament.

### **9.5 Explanatory notes**

Part 4 of the *Legislative Standards Act 1992* (LSA) requires an explanatory note to be circulated when a Bill is introduced into the Legislative Assembly and sets out the information an explanatory note should contain.

Explanatory notes were tabled with the introduction of the Bill. The notes are fairly detailed and contain the information required by Part 4 and a sufficient level of background information and commentary to facilitate understanding of the Bill's aims and origins.

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<sup>295</sup> Explanatory notes, p 19.

<sup>296</sup> Explanatory notes, p 19.

<sup>297</sup> Explanatory notes, p 19.

## 10 Compliance with the *Human Rights Act 2019*

The committee must consider and report to the Legislative Assembly about whether the Bill is not compatible with the *Human Rights Act 2019* (Human Rights Act), and consider and report to the Legislative Assembly about the statement of compatibility tabled for the Bill.<sup>298</sup>

A Bill is compatible with human rights if the Bill:

- (a) does not limit a human right, or
- (b) limits a human right only to the extent that is reasonable and demonstrably justifiable in accordance with section 13 of the Human Rights Act.<sup>299</sup>

The Human Rights Act protects fundamental human rights drawn from international human rights law.<sup>300</sup> Section 13 of the Act provides that a human right may be subject under law only to reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

### 10.1 Human rights compatibility

The committee is satisfied that the Bill is compatible with human rights. The committee considered several possible limitations to human rights which are discussed below. In each case, the committee was satisfied that the potential limit was reasonable and demonstrably justified.

#### 10.1.1 Prohibition on transporting unsecured dogs

Clause 13 creates a new section 33 that prohibits transporting unsecured dogs in vehicle trays or trailers. The maximum penalty is 60 penalty units. The purpose of the provision is to protect dogs and ensure the safety of the community by preventing road accidents.

The proposed provision engages the right to property because it regulates how a person's property (the dog and the vehicle) may be used.<sup>301</sup>

The proposed section 33 may also impact the right to the presumption of innocence<sup>302</sup> because a penalty may occur before any harmful activity, as a dog need only be 'able' to protrude from the vehicle.

##### 10.1.1.1 Committee comment

The committee is satisfied that any potential limits to the right to property or the right to the presumption of innocence is reasonable and demonstrably justified, noting the objectives are to protect animals and the community.

#### 10.1.2 Prohibition on prong collars and restraint devices

Clause 14 proposes to prohibit possession, without reasonable excuse, of a prong collar or 'another restraint device prescribed by regulation.' Examples of restraint devices are listed as including 'collars, leads, harnesses, muzzles, halters'. The purpose of the provision is to protect animals from unnecessary pain and suffering.

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<sup>298</sup> Section 39, *Human Rights Act 2019* (Human Rights Act).

<sup>299</sup> Section 8, Human Rights Act.

<sup>300</sup> The human rights protected by the Human Rights Act are set out in sections 15 to 37 of the Act. A right or freedom not included in the Act that arises or is recognised under another law must not be taken to be abrogated or limited only because the right or freedom is not included in this Act or is only partly included: Human Rights Act section 12.

<sup>301</sup> Section 24(2), Human Rights Act; *PJB v Melbourne Health* (2011) 39 VR 373 [92].

<sup>302</sup> Section 32(1), Human Rights Act.



The proposed provision engages the right to property because it restricts the manner in which a person may manage or control their property.<sup>303</sup> It also engages the right to the presumption of innocence because it reverses the onus of proof, requiring the accused to establish that they have a reasonable excuse for possessing the prohibited item.<sup>304</sup>

The explanatory notes state that the prohibition the possession of prong collars is justified as they are considered an inappropriate training aid because they cause pain and fear in dogs which is used as punishment.<sup>305</sup>

The Statement of Compatibility gives ‘collars’ as a humane alternative to prohibited devices.<sup>306</sup> However, ‘collars’ are listed in the examples of prohibited devices in the new section 37A. This definition is not an exhaustive list of prohibited devices, but it does create uncertainty around which devices that are to be, or may be, prohibited under the new section 37A.

Most pet owners will possess restraint devices, including those listed as examples. It would be hard to enforce the prohibition if all these individuals had to give a reasonable excuse for possessing them.

Community safety would be at risk if pet owners were discouraged from using restraint devices on their animals. The law requires them in many circumstances.<sup>307</sup> Failure to use a restraint device on an animal could result in breaches of the rights of children to protection.<sup>308</sup>

#### 10.1.2.1 Committee comment

The committee sought clarity around the definitions provided in the Act and application of this part of the Bill. A further response from DAF is provided in earlier chapters and published on the inquiry webpage. With that clarity, the committee is satisfied that limits are appropriate and demonstrably justified.

### **10.1.3 Registered person to give notice of change in information**

Clause 21 requires a person, who is registered to use animals for scientific purposes, to give notice of a disqualifying event or a change in the information on the person’s application within 7 business days after the event or change. This could include a change to personal information such as their name or address. The maximum penalty is 50 penalty units.

The purpose of this provision is to ensure that all relevant information about a registered person is available to the chief executive in a timely fashion. Immediate notification of a disqualifying event is important to ensure the protection of animals used for scientific purposes.

The disclosure of personal information engages the right to freedom from unlawful or arbitrary interference with a person’s privacy.<sup>309</sup> Arbitrariness is conduct that is ‘capricious... unpredictable, unjust or unreasonable in the sense of not being proportionate to the legitimate aim sought’.<sup>310</sup>

#### 10.1.3.1 Committee comment

The committee is satisfied that limits are appropriate and demonstrably justified.

<sup>303</sup> Section 24(2), Human Rights Act; *PJB v Melbourne Health* (2011) 39 VR 373 [92].

<sup>304</sup> Section 32(1), Human Rights Act; *Momcilovic v The Queen* (2011) 245 CLR 1 [54]-[55].

<sup>305</sup> Explanatory notes, p 25.

<sup>306</sup> Statement of compatibility, p 28.

<sup>307</sup> *Animal Management (Cats and Dogs) Act 2008* section 64, Schedule 1 section 3.

<sup>308</sup> Section 26(2), Human Rights Act.

<sup>309</sup> Section 25(a), Human Rights Act.

<sup>310</sup> *Thompson v Minogue* [2021] VSCA 358 [55].

#### **10.1.4 Cattle procedures accreditation scheme – request for further information**

The proposed new section 93I in clause 22 requires that an applicant for the cattle procedures accreditation scheme ‘must give [requested] information to the chief executive in writing unless the notice states a different way in which to give the information.’

The purpose of this provision is to ensure that all relevant information about an applicant is available for the chief executive to decide the application’s outcome.

The disclosure of personal information engages the right to freedom from unlawful or arbitrary interference with a person’s privacy.<sup>311</sup> When personal information is requested, there should be a rational connection between the information and the purpose of requesting the information.

##### **10.1.4.1 Committee comment**

The committee is satisfied that limit is reasonable and demonstrably justified. It is reasonable for the chief executive to request certain information to determine an application for a government-managed scheme.

#### **10.1.5 Cattle procedures accreditation scheme – amendment of applications by chief executive**

Two of the proposed sections within clause 22 (93J – Deciding amendment application and 93K – Amendment of approval by chief executive) state that if the chief executive refuses an application to amend an approved cattle procedures accreditation scheme, the chief executive must give the applicant notice about the decision.

The new section 93K states that the chief executive may amend an approved cattle procedures accreditation scheme and impose, vary or remove a condition of the approval.

The purpose of these provisions is to ensure that the chief executive retains control over the performance of holders’ functions under approved schemes.

Amending an approved scheme in a manner that is adverse to the holder could engage the holder’s right to property. Property includes intangible legal relationships between people and things.<sup>312</sup>

##### **10.1.5.1 Committee comment**

The committee is satisfied that any potential limits to the right to property are appropriate and demonstrably justified. The chief executive should have the power to amend an approved scheme, or refuse an application for an amendment, to ensure satisfactory performance of holders and effective running of the scheme.

#### **10.1.6 Cattle procedures accreditation scheme – register of approved schemes**

The proposed section 93R of clause 22 states that the chief executive must keep a register of approved cattle procedures accreditation schemes and publish it on the department’s website. The register must include certain information, including the name and contact details of the owner of the scheme.

This creates a situation where an individual’s names and contact details may be publicly disclosed and engages the human right for a person not to have their privacy unlawfully or arbitrarily interfered with.<sup>313</sup>

The purpose of this provision is to ensure the satisfactory performance of owners’ obligations under approved schemes, and thereby protect the animals upon which they conduct procedures.

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<sup>311</sup> Section 25, Human Rights Act.

<sup>312</sup> Section 24, Human Rights Act; *Yanner v Eaton* (1999) 201 CLR 351 [17]-[20].

<sup>313</sup> Section 25, Human Rights Act; *Jurecek v Director, Transport Safety Victoria* [2016] VSC 285 [65]-[67].

**10.1.6.1 *Committee comment***

The committee is satisfied that maintaining and publishing a register is a proportionate to this purpose, but is cautious making individuals' personal information publicly available.

The committee notes that the chief executive will be bound by relevant privacy legislation and ensure only de-identified information will be published.

**10.1.7 Requirement for livestock facilities to install CCTV**

The proposed section 93T requires livestock slaughter facilities to install, maintain and operate closed-circuit television (CCTV) equipment that records the movement of livestock at certain locations. The proposed section 93U(b) states that recordings should be stored 'in a secure place in compliance with all requirements about storage prescribed by regulation'.

The purpose of these provisions is to protect animals and ensure compliance with legislation by monitoring the movement and treatment of animals. The Martin Inquiry concluded that CCTV equipment would contribute to the humane slaughter of horses; improve biosecurity compliance; and send a signal to employees that welfare standards must be met.

However, CCTV equipment in public places may record employees or visitors and engages the right for a person not to have their privacy unlawfully or arbitrarily interfered with.<sup>314</sup> The Victorian Government's *Guide to developing CCTV for public safety in Victoria* includes the principle that an individual is entitled to a reasonable expectation of privacy when in public places.

The Bill includes the following protections:

- Each recording should be stored 'in a secure place in compliance with all requirements about storage prescribed by regulation' under section 93U(b)
- Signage must be displayed at the facility to make individuals aware that CCTV equipment has been installed under section 93V
- Recordings are to be erased or destroyed after 30 days unless an inspector requires retention under section s 93W
- The owner of the facility must not allow the CCTV equipment to be 'operated' by any person other than the owner or another person approved by the owner. The maximum penalty for contravention of this requirement is 300 penalty units under section 93X
- Recordings can only be used by an inspector for the purpose of investigating or prosecuting an animal welfare offence under section 93Y.

No mention is made in the proposed Bill about who may view the recordings and associated records, and no specific requirements about storage are outlined.

It could be argued that a more appropriate balance could be struck between the legitimate purpose of protecting animals and the importance of preserving individuals' rights to privacy by:

- Adding a provision modelled on section 142AH(g) of the Liquor Act 1992 (Qld) which states: 'The owner must not allow a recording, or record of a recording, to be viewed at the premises by anyone other than an inspector, the owner or another person approved by the owner.'
- Adding a provision modelled on section 37DB of the Liquor Regulation 2002 (Qld) which states: 'The secure place in which each recording is stored must be a place that only the owner or a person approved by the owner is able to access.'

<sup>314</sup> Section 25, Human Rights Act; Willner v Department of Economic Development, Jobs, Training and Resources [2015] VCAT 669 [18]; see also Stroop v Harris [2017] ACTSC 294.

- Imposing restrictions on who such approved persons are, for example, by requiring that a register of approved persons be kept at the facility. This would ensure that persons were not approved to operate the equipment or view the recordings in an ad hoc manner.

#### **10.1.8 Adding 'breach of duty of care' to list of serious offences**

Clause 43 adds 'breach of duty of care', if the breach causes 'death, serious deformity, serious disability or prolonged suffering of an animal' to the list of serious offences under the Disability Services Act.

This amendment will result in individuals who have been convicted of, or charged with, this offence being excluded from working as a disability service worker unless they are able to demonstrate exceptional circumstances.<sup>315</sup>

The purpose of this provision is to protect people with disabilities by ensuring that people who work as disability service workers have not been charged or convicted of offences that indicate a propensity towards serious offending.

Preventing a person from working as a disability service worker could engage the right to a fair hearing, the right not to be punished more than once for an offence and the right to the presumption of innocence.

The right to a fair hearing requires that proceedings be 'decided by a competent, independent and impartial court or tribunal'.<sup>316</sup> QCAT has found that, when someone has been excluded from obtaining a working with children card (known as a blue card), there is no breach to the right to a fair hearing where the applicant had an opportunity to be heard and all relevant information was taken into account.<sup>317</sup>

The right to not be punished more than once requires a person not be tried or punished more than once for an offence where the person has already been acquitted or convicted.<sup>318</sup> Recent cases have considered whether being prohibited from obtaining a blue card engages this right. They found that being prohibited from obtaining a blue card is not punishment, but was instead an assessment of suitability for a certain type of work.<sup>319</sup>

The presumption of innocence is a person's right to be presumed innocent until guilty according to law when charged with a criminal offence.<sup>320</sup> The right is engaged because an individual may be excluded from disability work on the basis that they have been charged, but not convicted.

It has been found that a charge has more weight than an unscrutinised allegation as consideration is given to the evidence supporting the charge. While limiting the right of an individual, it is justifiable as it upholds a child's right to be cared for in a way that protects them from harm. Parliament has imposed similar requirements around blue card applications under the *Working with Children (Risk Management and Screening) Act 2000*.<sup>321</sup>

##### **10.1.8.1 Committee comment**

The committee is satisfied that the limits imposed are necessary to protect those with a disability from being cared for by an unsuitable person. The committee notes that the above examples refer to a blue

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<sup>315</sup> Section 91, Disability Services Act.

<sup>316</sup> Section 31, Human Rights Act.

<sup>317</sup> *Storch v Director-General, Department of Justice and Attorney-General* [2020] QCAT 152 [101]-[103].

<sup>318</sup> Section 34, Human Rights Act.

<sup>319</sup> *Storch v Director-General, Department of Justice and Attorney-General* [2020] QCAT 152 [278]-[279]; *FGH v Director-General, Department of Justice and Attorney-General* [2020] QCAT 401 [62].

<sup>320</sup> Section 32, Human Rights Act.

<sup>321</sup> *RA v Blue Card Services, Department of Justice and Attorney-General* [2019] QCAT 267 [83]-[85].

card, which qualifies someone to participate in child-related work; and that the Human Rights Act does not have a right to protection for people with disabilities as it does for children.

### **10.2 Statement of compatibility**

Section 38 of the Human Rights Act requires that a member who introduces a Bill in the Legislative Assembly must prepare and table a statement of the Bill's compatibility with human rights.

A statement of compatibility was tabled with the introduction of the Bill as required by s 38 of the HRA. The statement contained a level of information to facilitate understanding of the Bill in relation to its compatibility with human rights.

**Appendix A – Submitters**

0001	Name Withheld	0035	Name Withheld
0002	Gary Tierney	0036	Name Withheld
0003	Morteza Nourbakhsh	0037	Name Withheld
0004	Name Withheld	0038	Name Withheld
0005	Shelley Stefiuk	0039	Name Withheld
0006	Confidential	0040	Name Withheld
0007	Confidential	0041	Name Withheld
0008	Confidential	0042	Name Withheld
0009	Dr Nicole Hansbro	0043	Name Withheld
0010	Cohen Porter	0044	Dr Jaime Manning
0011	Name Withheld	0045	Clinton Wehmeier
0012	Name Withheld	0046	Dog Training Queensland
0013	Name Withheld	0047	Name Withheld
0014	Name Withheld	0048	Danielle Atwell
0015	Annett Finger	0049	Name Withheld
0016	Lee Baker	0050	Linden Martin
0017	Association of Responsible Dog Owners	0051	Name Withheld
0018	Name Withheld	0052	Name Withheld
0019	Confidential	0053	Julia Terry
0020	Name Withheld	0054	Name Withheld
0021	Name Withheld	0055	Eve Schmacker
0022	Elisabeth Skowronski	0056	Name Withheld
0023	Darlene Tierney	0057	Name Withheld
0024	Name Withheld	0058	Marc Douglas
0025	Name Withheld	0059	Roisin Allen
0026	Name Withheld	0060	Daniel Tropeano
0027	Name Withheld	0061	Confidential
0028	Name Withheld	0062	Renay Buchanan
0029	Name Withheld	0063	Name Withheld
0030	Name Withheld	0064	Name Withheld
0031	Confidential	0065	Skye Frost
0032	Greg Outram	0066	Name Withheld
0033	Name Withheld	0067	Claire Haine
0034	Bronwyn Outram	0068	Name Withheld

0069	Name Withheld	0104	Regan Purcell
0070	Name Withheld	0105	Name Withheld
0071	Confidential	0106	Dennis Wadey
0072	Confidential	0107	Ronda Conway
0073	Jane Clancy	0108	Confidential
0074	Pet Industry Association of Australia	0109	Matthew Bourne
0075	Name Withheld	0110	Name Withheld
0076	Brittany Higgs	0111	Debrah Stack
0077	Brendon Kane	0112	Name Withheld
0078	Confidential	0113	Wendy Archer
0079	Name Withheld	0114	Liza Brock
0080	Lilli Smith	0115	Name Withheld
0081	Alexander Bloem	0116	Lisa Blackburn-Prout
0082	Confidential	0117	Ross Hill
0083	Name Withheld	0118	David Kennedy
0084	Debra Edwards	0119	Confidential
0085	Helen Lee	0120	Name Withheld
0086	Ross Smith	0121	Name Withheld
0087	Dylan Hindle	0122	Ann Woeller
0088	Carly Sorensen	0123	Carly Lownds
0089	Nicole Schmidhofer	0124	Jacqueline Wynne
0090	Paul Hardy-Smith	0125	Viktoria Vazorka
0091	Marcus Low	0126	Christine Talbot
0092	Adam Francis	0127	Martine Holberton
0093	Name Withheld	0128	Chris Leverich
0094	Amy Smith	0129	Name Withheld
0095	Confidential	0130	Name Withheld
0096	Name Withheld	0131	Bruce Earl
0097	Name Withheld	0132	Sigrid Engel Robson
0098	Name Withheld	0133	Loren Collis
0099	Jennifer Gregory	0134	Lorraine Walker
0100	Name Withheld	0135	Jodi Leach
0101	Carolyn Wragg	0136	Caitlin Heckler
0102	Breeze Hunter	0137	Shannay Anderson
0103	Name Withheld	0138	Jasmine Vink

0139	Jason Simpson	0174	Confidential
0140	Daniel De Angelis	0175	Name Withheld
0141	Suzi Beaton	0176	Confidential
0142	Anne Le Guinio	0177	Confidential
0143	Name Withheld	0178	Natalie Proud
0144	Jessica Wrench	0179	Confidential
0145	Rhiannon Bryan	0180	Name Withheld
0146	Suzette Edge	0181	Edwina Laginestra
0147	Michelle Meyer	0182	Lozz Starseed
0148	Lisa Kanne	0183	Sylvana Arguello
0149	Lyn Witts	0184	Confidential
0150	Peter Sabolewsky	0185	Diana Tomkins
0151	Cheryl Hudson	0186	Name Withheld
0152	Peter Eleftheriou	0187	Yasmin Odriscoll
0153	Talisha Baker	0188	Victoria Peers
0154	Jalen Romeo	0189	Christina D.
0155	Rebecca Andersen	0190	Rupert Macgregor
0156	Brooke Penrose	0191	Susan Riley
0157	Joanne Tarbuck	0192	Jennifer Rosater
0158	Name Withheld	0193	Terry Kayser
0159	Jenni Heraud	0194	Jennifer Osmunson
0160	Confidential	0195	Name Withheld
0161	Jenelle Gay	0196	Gary Hull
0162	Name Withheld	0197	Rayline Dean
0163	Name Withheld	0198	Name Withheld
0164	Jodie Williams	0199	Jesper Knutson
0165	Tracey Herbert	0200	Name Withheld
0166	Michelle Blackley	0201	Confidential
0167	Dominique Woods	0202	Brian Field
0168	Pawsome Behaviour Solutions	0203	Courtney Skirving
0169	Helen Duhig	0204	Marce Walsh
0170	Richard Kerr	0205	Confidential
0171	Maureen Carole Jackson	0206	Diana Kliche
0172	Liz Simkus	0207	Michael Snider
0173	Name Withheld	0208	Cheryl Watters



0209	Whitney Watters	0244	Janet Thomson
0210	Susan Meyerholz	0245	Graham Lovell
0211	Robert Cobb	0246	Glenise Slee
0212	Confidential	0247	Chris Michaelides
0213	Name Withheld	0248	Abby Charm
0214	Bronwen Evans	0249	David Minard
0215	Analise McNeill	0250	Bob Quigg
0216	Sandra Couch	0251	Name Withheld
0217	Name Withheld	0252	Rachael Aitken
0218	Lori Kidd	0253	Annie Potter
0219	Joanne Burton	0254	Judy Betteley
0220	Sheridan Heaton	0255	Name Withheld
0221	Prue McAuliffe	0256	Name Withheld
0222	Nadia Warne	0257	Name Withheld
0223	Confidential	0258	Erik Berrevoets
0224	Monika Marler	0259	Sophie Armstrong
0225	Name Withheld	0260	Susann Vetma
0226	Hanita Schlick	0261	Catherine Beauchamp
0227	Confidential	0262	Jackie Burd
0228	Name Withheld	0263	Benjamin Oates
0229	Name Withheld	0264	Name Withheld
0230	Pat Dale	0265	Rita Fessler
0231	Kelii Grauer	0266	Confidential
0232	Sean Conlan	0267	Raymond Kennedy
0233	Rebecca May	0268	Confidential
0234	Confidential	0269	Brandie Johnstone
0235	Brenda Miller	0270	Confidential
0236	Fiona McDougall	0271	Emma Bolvary
0237	Name Withheld	0272	Name Withheld
0238	Name Withheld	0273	Omar Pivaral
0239	Jo McPherson	0274	Marian Lewis
0240	Adrienne Alexander	0275	Min Ji
0241	Brenton O'Brien	0276	Confidential
0242	Name Withheld	0277	Kay Labo
0243	Confidential	0278	Steven Baulch

0279	Clare Rickell	0314	Graham Davies
0280	Trudy Bliesner	0315	Name Withheld
0281	Jennifer Pearen	0316	Patricia Cavarra
0282	Elise Stooove	0317	Shannon Meilak
0283	Joan Satkowski	0318	Margaret Jack
0284	Tom Greenaway	0319	Confidential
0285	Name Withheld	0320	Lianna Philip
0286	Erica Churchill	0321	Barbara Murphy
0287	Name Withheld	0322	Confidential
0288	Howard Tankey	0323	Tiena Patton
0289	Bailey Burgess	0324	Gayle Williams
0290	Keith Gould	0325	Jennifer Horsburgh
0291	Geno Leeh	0326	Giselle Cloutier
0292	Confidential	0327	Richard Morris
0293	Roslyn Olding	0328	Robyn McElligott
0294	Sharon Hester	0329	Name Withheld
0295	Bronwyn Lewis	0330	Name Withheld
0296	Name Withheld	0331	Friends of Bats & Bushcare Inc
0297	Sammy Page	0332	Joelle Cullen
0298	Alexi Burgess	0333	Maris Sussmilch
0299	Vivien Masala	0334	Joan Levy
0300	Ryan Claus	0335	Elke Eckhard
0301	Name Withheld	0336	David Nagley
0302	Name Withheld	0337	Name Withheld
0303	Joan Satkowski	0338	Yvonne Collins
0304	Name Withheld	0339	Sally Milne
0305	Lisa Weeks	0340	Cristina Sagarzazu
0306	Name Withheld	0341	Jennifer Medway
0307	Name Withheld	0342	Name Withheld
0308	Roberta Abba	0343	Hayley Edwards
0309	Confidential	0344	Michelle Howell
0310	Confidential	0345	Name Withheld
0311	Pauline Ranscombe	0346	Name Withheld
0312	Janet Walder	0347	Christine Boulsover
0313	Beatriz Diaz-Guijarro	0348	Name Withheld

0349	Garry Saunders	0384	Martin A O'Connell
0350	Hind Samy	0385	Susannah Campbell
0351	Kelsie Pirini	0386	Name Withheld
0352	Jude Lennox	0387	Confidential
0353	Name Withheld	0388	Confidential
0354	Name Withheld	0389	Marge Lofstrom
0355	Suzanne Jessen	0390	Susan Carpenter
0356	Name Withheld	0391	Tamara Metham
0357	Raber Ranch Sanctuary	0392	Leesa Swan
0358	Hester Goedhart	0393	Leigh Tran
0359	Rebecca Andersen	0394	Gunilla Lofstrom
0360	Gaylene Corben	0395	Jennie Trezise
0361	Peta Russell	0396	Danni Sudiarma
0362	Catherine Patterson	0397	Name Withheld
0363	Maria Arranz	0398	Name Withheld
0364	Hernan Escat Schwartz	0399	Name Withheld
0365	Dianne Clegg	0400	Jasmyne Case
0366	Name Withheld	0401	Ryan Maher
0367	Michael Noble	0402	Confidential
0368	Kim Begus	0403	Confidential
0369	Simon Hemsley	0404	Name Withheld
0370	Paws for Hope and Understanding Inc.	0405	Rebecca Wagstaff
0371	Margaret Sakrzewski	0406	Name Withheld
0372	Bradley Gardner	0407	Adam Donmez
0373	Don and Dianne Haines	0408	Christopher Magarey
0374	Name Withheld	0409	Angela Quick
0375	Carole Davis	0410	Jacqui Zakar
0376	Dave Cross	0411	Lynn Ricketts
0377	Marilyn Evenson	0412	Fiona Webb
0378	Bill Robinson	0413	Janina Price
0379	Dianne Johnston	0414	Name Withheld
0380	Ian Mackenzie	0415	Name Withheld
0381	Jay O'Brien	0416	Dianne Nethercott
0382	Name Withheld	0417	Ubbo Wiersema
0383	Gabriella Conti	0418	Kathy Smith

0419	Jaime Turgeon	0454	Janice Haviland
0420	Confidential	0455	Jessica Tselepy
0421	Barbie Marquet	0456	Name Withheld
0422	Jenifer Johnson	0457	Rishi Patel
0423	Petrana Nikolov	0458	Robert Joy
0424	Tamara Noël Swart	0459	John and Fiona Sampson
0425	Joanne Oneill	0460	Name Withheld
0426	Name Withheld	0461	Name Withheld
0427	Cheryl Mac Neal	0462	Lisa Heller
0428	Brittany Peters	0463	Lee Jeffery
0429	Hayley Persson	0464	Bronwyn Francis
0430	Thomas Schild	0465	Greg Forster
0431	Rebecca Hegarty	0466	Lynda Trotter
0432	Name Withheld	0467	Linda Cause
0433	Confidential	0468	Mandy Dalgleish
0434	Julie Howe	0469	Confidential
0435	Confidential	0470	Myra Irwin
0436	Louise Ray-Mertik	0471	Allison Perry
0437	Kate Pepper	0472	Name Withheld
0438	Jennifer C	0473	Christine Norman
0439	Paul Murphy	0474	Name Withheld
0440	Name Withheld	0475	Anne Mulvey
0441	Name Withheld	0476	Confidential
0442	Karen Brown	0477	Lia Cramer
0443	Dr Megan Davidson	0478	Confidential
0444	Sophia Bianchi	0479	Karen Parish
0445	John Swift	0480	Jill Bowman
0446	John Swift	0481	Wendy Coy
0447	Quentin Dresser	0482	Yvonne Stalling
0448	Diane Andrell	0483	Name Withheld
0449	Name Withheld	0484	Name Withheld
0450	Name Withheld	0485	Charles Davis
0451	Charme Galvin	0486	Christopher Wood
0452	Name Withheld	0487	Jan Kendall
0453	Name Withheld	0488	Mark Whitling

0489	Marie Ann Phillips	0524	Al Hill
0490	Paul Smith	0525	Confidential
0491	Name Withheld	0526	Svyetlana Hadgraft
0492	Julie Lymer	0527	Izzy Quinn
0493	Leonard Fitzpatrick	0528	Julie Garruccio
0494	Jessica Crerar	0529	Cheryl Aland
0495	Verena Homberger	0530	Name Withheld
0496	Martin Derby	0531	Carolyn Worth AM
0497	James Ogden	0532	Name Withheld
0498	Greg Johnston	0533	Name Withheld
0499	Name Withheld	0534	Name Withheld
0500	Sheree Lee Chin	0535	Name Withheld
0501	Name Withheld	0536	Tarcisio Teatini-Climaco
0502	Confidential	0537	Confidential
0503	Name Withheld	0538	Name Withheld
0504	Name Withheld	0539	Heather Abraham
0505	Chris Pedone	0540	Peter Revell
0506	Tolga Bat Rescue and research	0541	Annemarie Boettcher
0507	Name Withheld	0542	Sarah Day
0508	Kristi Gartner	0543	Name Withheld
0509	Antony Clunies-Ross	0544	Carolann Butler
0510	Lisa	0545	Damian Dey
0511	Jeanette Speedy	0546	Name Withheld
0512	Dorthe Kurrer	0547	Julia Hall
0513	Karen Shepard	0548	Ronald Brown
0514	Agnieszka Anna Oudendijk	0549	Vicky Hunterland
0515	Jemma Fitzgerald	0550	Name Withheld
0516	Name Withheld	0551	Mike Callanan
0517	Archna Oberoi	0552	Peter Monie
0518	Chris Pedone	0553	Karin Johnston
0519	Name Withheld	0554	Pat Lowe
0520	Name Withheld	0555	Name Withheld
0521	Christina D.	0556	Tracey Fisher-Rust
0522	Sybil Pliner	0557	Robert Robinson
0523	Terri Weber	0558	Name Withheld

0559	Name Withheld	0594	Francie Tonkin
0560	Monika Doepgen	0595	Joanne Gwatin-Williams
0561	Hans Fankhanel	0596	Name Withheld
0562	Peter Barnett	0597	Name Withheld
0563	Helmut Berndt	0598	Derek Hicks
0564	Chris Harper	0599	Nick Karcher
0565	Michael Bowles	0600	Loretta Leslie
0566	Confidential	0601	Jill Exter
0567	Name Withheld	0602	Hilda Shaw
0568	Name Withheld	0603	Confidential
0569	Judith Hurle	0604	Steve Courtney
0570	Name Withheld	0605	Confidential
0571	Gretchen Pauli	0606	Companions And Pets Party
0572	Marie-Louise Drew	0607	Nicole Verwey-Baker
0573	Julie The	0608	Bark Busters International
0574	James Black	0609	Sonia Jack
0575	Name Withheld	0610	Nikki Wilson
0576	Name Withheld	0611	Eric Owens
0577	Name Withheld	0612	Phil Trovato
0578	Name Withheld	0613	Benjamin Oates
0579	Matthew Waldron	0614	Adriana Mohi
0580	Confidential	0615	Name Withheld
0581	Pepi McIntosh	0616	Peter Ball
0582	Owen Smith	0617	Peter Snelling
0583	Chris van Wyk	0618	Jordan von Eitzen
0584	Name Withheld	0619	Merridy Webster
0585	Robyn Payne	0620	Debra Moore
0586	Kim-Leigh Fowler	0621	Lynden Macgregor
0587	Cheryl Snyder	0622	Mary Ann Viveros
0588	Victoria Lilley	0623	Rachael Le Busque
0589	Name Withheld	0624	Nicole Morixbauer
0590	Tiana Kennedy	0625	Confidential
0591	Name Withheld	0626	Natalie Swan
0592	Hilda Shaw	0627	Confidential
0593	Name Withheld	0628	Name Withheld

0629	Name Withheld	0664	Confidential
0630	Above and Beyond Dog Training	0665	Clare Hawse
0631	Vicki Jordan	0666	Stella Bartlett
0632	Kim Hart	0667	Name Withheld
0633	Deborah Roberts	0668	Richard Sharman
0634	Confidential	0669	Name Withheld
0635	Jo Adams	0670	Steven Arnold
0636	Dennis Edwards	0671	Tanya Hutchins
0637	Wayne Johnson	0672	Name Withheld
0638	Name Withheld	0673	Lea Pritchard
0639	Karen Hinds	0674	Name Withheld
0640	Stephen Wardle	0675	Renay Reato
0641	Jerry Willimann	0676	Pamela Dawes
0642	Sylvia Cooper	0677	Thoroughbred Breeders Queensland Association
0643	Joan Bowker	0678	Margaret Ferris
0644	Yevgen Kochkin	0679	Glynis Hendricks
0645	Matthew Tones	0680	Confidential
0646	Sue Mills	0681	Lee Kingston
0647	Nicole Brown	0682	Steve Johnson
0648	Noeleen Apps	0683	Confidential
0649	Christina Peebles	0684	Ann Miller
0650	Alyce Dennien	0685	Shirley Sayer
0651	Name Withheld	0686	Mitch Watson
0652	Maria Soria	0687	Nathan Appleton
0653	Kirsten Ferguson	0688	Name Withheld
0654	Alison Roe	0689	Jennifer De Lacy
0655	Name Withheld	0690	Kristy King
0656	Lynda Blake-Owen	0691	Name Withheld
0657	Heather Laurie	0692	Catherine Hall
0658	Name Withheld	0693	Name Withheld
0659	Jennifer Cuthbertson	0694	Meng-Ping Hsu
0660	Liz Brouwer	0695	Helen Wright
0661	Susan Ciaramella	0696	Jennifer Marshall
0662	Megan Robinson	0697	Nicola Williams
0663	Confidential	0698	Sarah Cooper

0699	Name Withheld	0734	Name Withheld
0700	Rachel Cassidy	0735	Jenni Fleming
0701	Sandy Dellit	0736	Catherine Viljoen
0702	Jerily Rushworth	0737	Name Withheld
0703	Geoffrey Wright	0738	Noelene Musumeci
0704	Confidential	0739	Name Withheld
0705	Stacey Smith	0740	Mark Ferguson
0706	Iris Dorsett	0741	Joanne Tarbuck
0707	Leilah Yanez	0742	Gayle Martin
0708	Corrina Lessing	0743	Name Withheld
0709	Name Withheld	0744	Sue Warrener
0710	Confidential	0745	Name Withheld
0711	Carolyn Rosenberg	0746	Name Withheld
0712	Stacey	0747	Andrea Sison
0713	Name Withheld	0748	Australian Pork Limited
0714	Name Withheld	0749	Name Withheld
0715	John Strieker	0750	Orien Duffy
0716	Jami Dale	0751	Irina Bromberg
0717	Peter Jack	0752	Pauline Rittner
0718	Gail Szafir	0753	Trevor Blatchford
0719	Tara Murphy	0754	Confidential
0720	Julie Walker	0755	Lorraine Hayes
0721	Christine Utzinger	0756	Angela Patrick
0722	Jill Rigby	0757	Craig Brown
0723	Melynda Johnston	0758	Confidential
0724	Tracey Mammen	0759	Sean Davies
0725	Robert Stroud	0760	Name Withheld
0726	Andrew Umphries	0761	Name Withheld
0727	Kerry Chamberlain	0762	Dianora Niccolini
0728	Beth Wilkins	0763	Vickie Barber
0729	Sophia Grogg	0764	Peter Morris
0730	Tony Lulof	0765	Name Withheld
0731	Anthony Donnici	0766	Millie Wall
0732	Name Withheld	0767	Charlie Aitken
0733	Elaine Haddock	0768	Name Withheld



0769	Leigh Olson	0804	Name Withheld
0770	Wendy Murray	0805	Kevin Allsworth
0771	Rock Cognition Pty Ltd	0806	Name Withheld
0772	Name Withheld	0807	Terry Daly
0773	Name Withheld	0808	Karen Hill
0774	Tika Bordelon	0809	Sharon Byron
0775	Heather Perlmutter	0810	Karen Sanchez
0776	Kelsie Pirini	0811	Noel Woodrow
0777	Marion Spiller	0812	Confidential
0778	Animal Welfare League Qld	0813	Name Withheld
0779	Animal Liberation Queensland	0814	Melissa M McGuire
0780	The Animal Justice Party	0815	Sakshi Vig
0781	Animal Care Australia Inc	0816	Tracy Ouellette
0782	Name Withheld	0817	Sharne Vogt
0783	Sentient	0818	Brian Slosek
0784	Farm Animal Rescue	0819	Confidential
0785	Pet Professional Guild Australia	0820	Steve Dobson
0786	National Health and Medical Research Council	0821	Lauren Pharo
0787	Confidential	0822	Name Withheld
0788	Christina Cameron	0823	Name Withheld
0789	Jennifer Bailey	0824	Mark Smart
0790	Ben Tredinnick	0825	Angela Belknap
0791	Stacey Bolton	0826	Name Withheld
0792	Name Withheld	0827	Ross Young
0793	Robyn Miotello	0828	Audrey Raymond
0794	Name Withheld	0829	Rebecca Haddow
0795	Claudia Mauracher	0830	Pamela Wren
0796	Karin Xuereb	0831	John Powell
0797	Claire Deprez	0832	Name Withheld
0798	Name Withheld	0833	Name Withheld
0799	Dianne Drake	0834	Name Withheld
0800	Diana Sinclair	0835	Name Withheld
0801	Name Withheld	0836	Confidential
0802	Michele Allan	0837	Confidential
0803	Confidential	0838	Dyan Osborne

0839	Mary Shabbott	0874	Lana Hofmann
0840	Janice Mackenzie	0875	Lyn Cox
0841	Mike Wescombe-Down	0876	Name Withheld
0842	Name Withheld	0877	Name Withheld
0843	John Kemp	0878	Name Withheld
0844	Confidential	0879	Name Withheld
0845	Camille Barrio	0880	Paula Gilbard
0846	Confidential	0881	Confidential
0847	Lana Williams	0882	Marilyn Orr
0848	Christina Franke	0883	Bianca Staker
0849	Marie Walter	0884	Name Withheld
0850	Paul Bauman	0885	Australasian Bat Society
0851	Dr Robert Jones	0886	Australian Pet Welfare Foundation
0852	Aussie Pooch Mobile Pty Ltd	0887	Name Withheld
0853	Beautiful Beasts dog training	0888	Professional Dog Trainers of Australia incorporated
0854	Name Withheld	0889	Confidential
0855	Name Withheld	0890	Australian Alliance for Animals
0856	Pat Stuart	0891	Confidential
0857	Name Withheld	0892	Animals Need Shade
0858	Mackenzie Severns	0893	RSPCA Qld
0859	International Association of Canine Professionals (IACP)	0894	Name Withheld
0860	Name Withheld	0895	Animals Australia Federation
0861	Judith Cook	0896	FOUR PAWS Australia
0862	Name Withheld	0897	PETA Australia
0863	Name Withheld	0898	Wild Animals Australia
0864	Name Withheld	0899	Far North Queensland Regional Organisation of Councils
0865	Confidential	0900	Animal Defenders Office Inc.
0866	Name Withheld	0901	Humane Society International
0867	Shanae Stenhouse	0902	Thoroughbred Breeders Australia & Thoroughbred Breeders Queensland Association
0868	Kathleen Wheeler	0903	Dr Steven White
0869	Judith Sell	0904	Racing Queensland
0870	Melanie Pryde	0905	Cheryl Forrest-Smith
0871	Ailsa Kuiper	0906	Training Four Paws Australia
0872	Name Withheld		
0873	Name Withheld		

0907	World Animal Protection	0941	Lenore Taylor
0908	Property Rights Australia	0942	sh Khalili
0909	Dogs Queensland	0943	Lynne Kupkee
0910	Australian Livestock and Rural Transporters Association	0944	Robert Adams
0911	Michelle Sawyer	0945	Andrea Biro
0912	Joanne Pearce	0946	Sharon Urban
0913	Danielle Sulikowski	0947	Name Withheld
0914	James Brown	0948	Sandra Smith
0915	Jordan Salmanowicz Longever	0949	Confidential
0916	Junette Taylor	0950	Name Withheld
0917	Sue Limpus	0951	Name Withheld
0918	Name Withheld	0952	Georgina Rockett
0919	Confidential	0953	Melanie Ball
0920	Name Withheld	0954	Name Withheld
0921	Deanna Rudd	0955	Lilia Ferrario
0922	Name Withheld	0956	Karen Wakil
0923	Felicity Nixon	0957	Name Withheld
0924	Chris Camelio	0958	Name Withheld
0925	Marion Campbell	0959	Confidential
0926	Name Withheld	0960	Suzanne McCarthy
0927	Jack Strom	0961	Rob Mellett
0928	Hermine Willey	0962	Name Withheld
0929	Jenny Kelly	0963	Name Withheld
0930	Sarah Mchiggins	0964	Name Withheld
0931	Kathy Martone	0965	Carol Panicci
0932	Tina Gorskey	0966	Sarah Devine
0933	Elizabeth Jane	0967	Barbara Glenwright
0934	Brad Bergeron	0968	Lisa Iffland
0935	Name Withheld	0969	Gary Dryden
0936	William Haran	0970	Name Withheld
0937	Nirbeejananda Saraswati	0971	Joan Heezen
0938	Tasmanian Wildlife Rehabilitation Council Inc.	0972	Craig Watson
0939	Nicholas Benson	0973	Chels Frank
0940	J I	0974	Tennille Bankes
		0975	Peeter Kull

0976	Confidential	1011	Name Withheld
0977	Deborah Joseph	1012	Name Withheld
0978	Pat Daley	1013	Name Withheld
0979	Gina Keys	1014	Sophia Keller
0980	Name Withheld	1015	Name Withheld
0981	Confidential	1016	Jill Rhiannon
0982	Elicia Mackenzie	1017	La Standridge
0983	Kristin Barton	1018	Joseph Kenosky
0984	Alice Harris	1019	Cameron McDermid
0985	Name Withheld	1020	Joan Satkowski
0986	Walter Flicker	1021	Confidential
0987	Kim Chmel	1022	Nicholas Andrews
0988	Nancy Schultz	1023	Jennie Wiles
0989	Name Withheld	1024	Name Withheld
0990	Confidential	1025	Name Withheld
0991	Christine Smedley	1026	Ruth Barrett
0992	Renay Reato	1027	Gordon Westlake
0993	Selena Brauman	1028	Confidential
0994	John Doll	1029	Name Withheld
0995	Name Withheld	1030	Confidential
0996	Robin Morton	1031	Diana Hill
0997	Name Withheld	1032	Name Withheld
0998	Name Withheld	1033	Judi Hurle
0999	Gloria Fung	1034	Rebecca Ferguson
1000	Confidential	1035	Moeko Ivory
1001	Gretchen Roberts	1036	Name Withheld
1002	Donald Sparacino	1037	Stacey Birkby
1003	Jeremy Bird	1038	Kathy Martinez
1004	Ingrid Cattley	1039	Arlene Kaplan
1005	Name Withheld	1040	Josephine Cummins
1006	Name Withheld	1041	Brian Morley
1007	William Hunt	1042	Doug Birkby
1008	David Lennon	1043	Nicole Schmidhofer
1009	Audrey Farol	1044	Name Withheld
1010	Name Withheld	1045	Edna Metcalf

1046	Jill Exter	1081	Name Withheld
1047	Jacqueline Knighten	1082	Michael Atwell
1048	Name Withheld	1083	Name Withheld
1049	Geoff Maddox	1084	Jon Andersen
1050	Karen Jacques	1085	Debbie Williams
1051	John Satkowski	1086	Tiffany Kellett
1052	Name Withheld	1087	Eleanor Porciello
1053	Lesley Bowden	1088	Liz Charpleix
1054	Leanne Smith	1089	Emmanuelle Blythe
1055	Name Withheld	1090	Rachael Wilkinson
1056	James Watkins	1091	Name Withheld
1057	Jill Exter	1092	Reg Forsaith
1058	Jane Van Haaften	1093	Christine Cramp
1059	Name Withheld	1094	Janet Yoshida
1060	Name Withheld	1095	Leigh Platte
1061	Madison Bensdorp	1096	Paul Gray
1062	Name Withheld	1097	Kevin Conley
1063	Daphne Truesdale	1098	Name Withheld
1064	Tony Barclay	1099	Nicholas Prescott
1065	Laura Turner	1100	Maike Coates
1066	Name Withheld	1101	Name Withheld
1067	Dennis Lyday	1102	Name Withheld
1068	Daniel Orzech	1103	Frank Styler
1069	Name Withheld	1104	Name Withheld
1070	Gerard Wilson	1105	Name Withheld
1071	Lianne Barker	1106	Name Withheld
1072	Name Withheld	1107	Robin Armstrong
1073	Janet Porter	1108	Name Withheld
1074	Daphne Truesdale	1109	Confidential
1075	Stephanie McAlister-Abdulrazaq	1110	Angela Sherriff
1076	Name Withheld	1111	Jody Mahnken
1077	Sara Murphy	1112	Colin White
1078	Theresa Havens	1113	Donna Mackay
1079	Kate Bryce	1114	Kate Harder
1080	Denise Seabright	1115	Rae O'Brien

1116	Martin Mansfield	1151	Kerry O'Meara
1117	Caroline Ceylon Bugden	1152	Name Withheld
1118	Lisa Westgard	1153	Name Withheld
1119	Name Withheld	1154	Rupert Macgregor
1120	Nigel McMillan	1155	John Russell
1121	Ruth Gabriel	1156	Name Withheld
1122	David Nagley	1157	Name Withheld
1123	Mary Anderson	1158	Tracey Kent
1124	Jaime Turgeon	1159	Arnold Gillespie
1125	Jade	1160	Diana Palmer
1126	Jim Roberts	1161	Wild Animals Australia
1127	Alan McKibbin	1162	Wendy Radford
1128	Caroline Eldering	1163	Rhondda McMurray
1129	Andrew Chambers	1164	Robyn Kramer
1130	Pat Morris	1165	Katy McMurray
1131	Dawn Smith	1166	Name Withheld
1132	Esther Cooper	1167	Megan Tones
1133	Confidential	1168	Miriam Potter
1134	Richard Warren	1169	Julia Burns
1135	Gary Blight	1170	Name Withheld
1136	Scott Hunter	1171	Name Withheld
1137	John Baybutt	1172	Meng Tze Chia
1138	Name Withheld	1173	Name Withheld
1139	Name Withheld	1174	Name Withheld
1140	Confidential	1175	Name Withheld
1141	Tatiana Souvorova	1176	Sandra Zaninovich
1142	Rebecca McCallion	1177	Name Withheld
1143	Kumudika Gunaratne	1178	Ann Fisher
1144	Briony Jenkins	1179	Sharyn Hutchinson
1145	Martin Watts	1180	Warwick Boardman
1146	Neville Newell	1181	Susan Strodl
1147	Name Withheld	1182	Michele Parry
1148	Keith Smith	1183	Gary Roy
1149	Diane Cook	1184	Robert Thu Du
1150	Tenille Williams	1185	Ngaire Worboys

1186	Avicia Dutton	1221	Name Withheld
1187	Confidential	1222	Kathryn Platell
1188	Monica O'Leary	1223	Josephine Partos
1189	Ben Gepp	1224	Kylie Hill
1190	Name Withheld	1225	Name Withheld
1191	Sonya Skok	1226	Confidential
1192	Name Withheld	1227	Margaret Holmes
1193	Confidential	1228	Lyn Ellerton
1194	Name Withheld	1229	Katrina Lee
1195	Debra MacDougal	1230	Name Withheld
1196	Robyn McElligott	1231	Name Withheld
1197	Dianne Malagas	1232	Name Withheld
1198	Lyndsay Campbell	1233	Nadia O'Carroll
1199	Name Withheld	1234	Tamborine Mountain Natural History Association Inc
1200	Leonie Wood	1235	Dianne Craig
1201	Isabella O'Connor	1236	Confidential
1202	Jim Treanor	1237	Zane Strads
1203	Confidential	1238	Confidential
1204	Ellen Snyder	1239	Megan Schubert
1205	Wendy Davison	1240	Pete Domasz
1206	Patricia Gaggin	1241	Lynda Baker
1207	Confidential	1242	Ellenor Towne
1208	Name Withheld	1243	Name Withheld
1209	Name Withheld	1244	Jewel Vercoe Rainbow
1210	Heidi Murphy	1245	Name Withheld
1211	Carolyn Worth	1246	Jemma Meecham
1212	Confidential	1247	Kirsten O'Shea
1213	Name Withheld	1248	Peter Young
1214	Andrea Harrison	1249	Chris Hughes
1215	Name Withheld	1250	Name Withheld
1216	Confidential	1251	Kylie Walford
1217	Charlotte Watson	1252	Name Withheld
1218	Michael Queißer	1253	Brenda Buzzell
1219	Stephanie Aleksov	1254	Nicole Theuer
1220	Victoria Bail	1255	Nigel Davis

1256	Name Withheld	1291	Name Withheld
1257	Kirsty Scaife	1292	Name Withheld
1258	Mary Reidt	1293	Robert DeYoung
1259	Steve Callanan	1294	Kerry Jackson
1260	Name Withheld	1295	Christine Voltz
1261	Mia Whytcross	1296	Sylvana Arguello
1262	Confidential	1297	Deborah Birdthistle
1263	Name Withheld	1298	Yani Botha
1264	Name Withheld	1299	Mary Kay Gibbons
1265	Name Withheld	1300	Confidential
1266	Confidential	1301	Ray Yow
1267	Name Withheld	1302	Bill Grant
1268	Michelle Fleming	1303	Name Withheld
1269	Dorene Richman	1304	Emily Veeren
1270	Belinda Payne	1305	Renny Bryden
1271	Carolyn Pennisi	1306	Colleen Pearson
1272	Confidential	1307	Name Withheld
1273	Confidential	1308	Michelle Harris
1274	Kelly Gallagher	1309	Name Withheld
1275	Karen Swan	1310	Kimberly Bouchard-Shapiro
1276	Lucy Nicholson	1311	Name Withheld
1277	Jo-Anne Bird	1312	Tonya Sexton
1278	Maggie Scarvell	1313	Martin Seidl
1279	Carolyn Pennisi	1314	Nicole Kennedy
1280	Dawn Gemme	1315	Casey McCabe
1281	Confidential	1316	Name Withheld
1282	Confidential	1317	Name Withheld
1283	Confidential	1318	Name Withheld
1284	Angela Charlesworth	1319	Jennifer Rosater
1285	Carla Howells	1320	Name Withheld
1286	Mary Hancock	1321	Sonya Curry
1287	Susan Hutchinson	1322	Name Withheld
1288	Samantha Patchett	1323	Helen Chamberlain
1289	Winnie Rusk	1324	Name Withheld
1290	Mark Haslem	1325	Name Withheld



1326	Name Withheld	1361	Wendy Lunn
1327	April Connolly	1362	Lisa Puchta
1328	Name Withheld	1363	Name Withheld
1329	Name Withheld	1364	Deborah Oliver
1330	Catherine Beauchamp	1365	Name Withheld
1331	Name Withheld	1366	Gordon Phillips-Ross
1332	Cheryl Walker	1367	Laurent Sanhard
1333	Name Withheld	1368	Jina Lipman
1334	Name Withheld	1369	Kelly Jones
1335	Nathan McCredie	1370	Confidential
1336	Justin Finn	1371	Name Withheld
1337	Name Withheld	1372	Catherine Reid
1338	Name Withheld	1373	Name Withheld
1339	Sandra Dykstra	1374	Name Withheld
1340	Confidential	1375	Name Withheld
1341	Name Withheld	1376	Name Withheld
1342	Anita Pryde	1377	Sarah Cunningham
1343	Robyn Hooper	1378	Name Withheld
1344	Name Withheld	1379	Name Withheld
1345	Tracey Wells	1380	Confidential
1346	Michelle Jenz	1381	Leah Dent
1347	Jennifer Black	1382	Marzena Jensen
1348	Stephen Marriott	1383	Nicole Joy
1349	Mary Stanton	1384	Name Withheld
1350	Name Withheld	1385	Andrew Willman
1351	Adil Mehta	1386	Sarah King
1352	Rossn Hutcherson	1387	Confidential
1353	Vickie Breckenridge	1388	Name Withheld
1354	Name Withheld	1389	Scott Kilvington
1355	Lisa Mongelli	1390	Name Withheld
1356	Confidential	1391	Madhu Ashtakala
1357	M Anderson	1392	Confidential
1358	Name Withheld	1393	Emma Kolodjashnij
1359	Confidential	1394	Name Withheld
1360	Reisha Marris	1395	Name Withheld

1396	David Gilbard	1431	Barbara Lyons
1397	Susan Blair	1432	Confidential
1398	Darcy Shapcott	1433	Confidential
1399	Confidential	1434	Confidential
1400	Confidential	1435	Emma Blee
1401	Tamasin Ramsay	1436	Pawfect Manners Dog Training
1402	Jill Exter	1437	Name Withheld
1403	Name Withheld	1438	Confidential
1404	Ann Bermingham	1439	Name Withheld
1405	David Haywood	1440	Angela Parker
1406	Elizabeth Nelson	1441	J Kinsella
1407	Mark Dober	1442	Pauline Bergin
1408	Maureen Brohman	1443	Katherine Oliver
1409	Name Withheld	1444	Jane Paul
1410	Name Withheld	1445	Jon Krause MP on behalf of a constituent
1411	Peggy York	1446	S Poh
1412	Jill Lotter	1447	Name Withheld
1413	Name Withheld	1448	Janine Hartmann
1414	Min Ji	1449	Name Withheld
1415	Catherine Coake	1450	Jewel Vercoe Rainbow
1416	Carla Batts	1451	Queensland Farmers' Federation
1417	Confidential	1452	Senator Malcolm Roberts, Senator for Queensland, One Nation Party
1418	Chris O'Dowd	1453	Australian Veterinary Association
1419	Nikole Hynard	1454	Marie Gleeson
1420	April Middlebrough	1455	Mimosa Murabito
1421	Rachel Clancy	1456	Emma Abbott
1422	Margaret King	1457	Angela Atkinson
1423	Confidential	1458	Romina Lau Diaz
1424	Name Withheld	1459	Name Withheld
1425	Jenny Kingdom	1460	Mary Ann Viveros
1426	Arlen Mendez	1461	Name Withheld
1427	Name Withheld	1462	Cheri Donaldson
1428	Name Withheld	1463	Karin Goodman
1429	Johann Lipman	1464	Kelly Waters
1430	Bronwyn Hankin	1465	Confidential

1466	Name Withheld	1481	Ian Scofield
1467	Gladys Tchatal	1482	Kelly Conger
1468	Leanne Stone	1483	Nastassia Hain
1469	Name Withheld	1484	Karen Brettner
1470	Name Withheld	1485	Soo Balbi
1471	Greg Clark	1486	Jackie Wright
1472	Confidential	1487	Carol Bailey
1473	Vicki Thomas	1488	Name Withheld
1474	Beagle Freedom Australia	1489	Richard Morton
1475	Hannah van Alphen	1490	Name Withheld
1476	Carol Mijic	1491	AgForce Queensland
1477	Pawsome Assistance Dogs Inc	1492	Confidential
1478	Paul A	1493	Confidential
1479	Richard Hughes	1494	Confidential
1480	Giles Bennett	1495	Jodi McCredie

## **Appendix B – Officials at public briefings**

### **Department of Agriculture and Fisheries – 23 May 2022**

- Mr Malcolm Letts, Deputy Director-General and Chief Biosecurity Officer, Biosecurity Queensland
- Ms Lisa Crowle, Acting Manager Policy (Animal Welfare)

### **Queensland Audit Office – 20 June 2022**

- Mr Brendan Worrall, Auditor-General
- Mr P Braham, Assistant Auditor-General Client Services
- Mr Darren Brown, Senior Director

## **Appendix C – Witnesses at public hearings**

### ***Public Hearing – 14 June 2022***

#### **AgForce Queensland**

- Mr Michael Guerin, Chief Executive Officer
- Mr William Wilson, President Cattle Board and Director AgForce Queensland Farmers Board
- Mr Michael Allpass, Livestock Policy Director

#### **Australian Livestock and Rural Transporters Association**

- Mr Mathew Munro, Executive Director
- Mr Graeme Hoare, Chair National Driver and Animal Welfare Committee, Livestock and Rural Transporters Association of Queensland

#### **National Health and Medical Research Council**

- Ms Prue Torrance, Executive Director, Research Quality and Priorities

#### **Australian Veterinary Association**

- Dr Alan Guilfoyle, Director
- Dr Ben Brightman, Queensland Division President
- Dr Anna Sri, Queensland Division Committee Member
- Mr Graham Pratt, National Manager, Advocacy and Campaigns

#### **Thoroughbred Breeders Queensland Association**

- Mr Basil Nolan, President
- Mr Michael Kelly, Treasurer
- Mr Michael Grieve, Committee Member

#### **Racing Queensland**

- Dr Karen Caldwell, Government Liaison Officer / Veterinarian
- Mr Simon Stout, Industry Policy Manager

#### **Animal Welfare League Queensland**

- Dr Joy Verrinder, Strategic Director

#### **Animal Liberation Queensland**

- Mr Chay Neal, Executive Director

#### **Dog Training Queensland**

- Mrs Brittany Young, Co-Founder
- Ms Kirsty Reid, Co-Founder

#### **Professional Dog Trainers Australia**

- Mr Steven Courtney, President
- Mrs Jacqui Zakar, Vice President

### **Animal Care Australia**

- Mr Michael Donnelly, President

### **Dogs Queensland**

- Mrs Ulla Greenwood, President
- Ms Elisa Jane McCutcheon, Director & Chair, Canine Health Committee

### **Individuals**

- Mrs Leichelle McMahon
- Ms Nicole Boruen

### ***Public Hearing – 15 June 2022***

#### **RSPCA Queensland**

- Mr Darren Maier, Chief Executive Officer
- Ms Rachel Woodrow, General Manager, Inspectorate and Rescue

#### **Brisbane City Council**

- Mrs Rosalynn Casabella, Principal Policy and Legislation Officer – City Safety
- Mr Brett Esbensen, Governance and Regulatory Guidance Manager
- Mr Mark Scott, Animal Services Delivery Co-ordinator

#### **Pet Professional Guild Australia (videoconference)**

- Ms Sarah Campbell, Secretary
- Mrs Adriana Milne, PPGA General Committee Member

#### **Australian Alliance for Animals (videoconference)**

- Dr Jed Goodfellow, Director, Policy and Government Relations
- Dr Bidda Jones, Director, Strategy and Research

#### **Animal Defenders Office (videoconference)**

- Ms Tara Ward, Co-founder and Managing Solicitor (Volunteer)
- Ms Sarah Margo, Solicitor

#### **Australian Pork Ltd (videoconference)**

- Dr Heather Channon, National Feral Pig Management Coordinator

## Statements of Reservation

**STATEMENT OF RESERVATIONS**  
**ANIMAL CARE AND PROTECTION AMENDMENT BILL 2022**  
**JIM MCDONALD MP (DEPUTY CHAIR) AND MICHAEL HART MP**

**Introduction**

The Opposition has a number of reservations with the Bill in its current form.

It is clear the Government had not consulted with key stakeholders prior to the introduction of the Bill.

We uncovered clauses which have been rushed through with little thought or consideration. For example, Dogs Training Queensland told the committee the first time they heard about the proposed banning of pronged collars was when it appeared on the Premier's Facebook page.<sup>1</sup>

This raises serious concerns in the wake of Peter Coaldrake's review of culture and accountability in the Queensland public sector which confirmed an 'integrity system under stress trying to keep check on a culture that, from the top down, is not meeting public expectations.'

The Opposition would like to see the recommendations outlined below be accepted.

**Prong collars**

According to the explanatory notes, the Bill is about 'prohibiting inhumane practices' including possessing or using a prong collar. The explanatory notes state that prong collars are 'designed to bruise or pierce an animal's skin'.<sup>2</sup>

The committee heard from multiple dog trainers from across the state and beyond, who set out their strong opposition to the proposal.

We were forwarded correspondence from Herm Sprenger, a leading manufacturer of prong collars, which stated 'Sprenger prong collars have extra rounded prongs that make it impossible to injure a dog's skin', with a centre plate that directs the prongs away from the larynx.<sup>3</sup>

Sprenger knows of no cases where a dog was injured with a Sprenger prong collar when it was used as intended.

The explanatory notes go onto say that banning prong collars is justified as because they 'cause pain and fear in dogs which is used as a punishment' and that 'research has shown

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<sup>1</sup> Public hearing transcript, Brisbane, 14 June 2022, pp 33.

<sup>2</sup> Explanatory notes, p 3.

<sup>3</sup> Herm. Sprenger Metallwarenfabrik, correspondence, 14 June 2022, p 1.



that using aversive training methods including the use of prong collars can cause pain and distress'.<sup>4</sup>

If this is the case, we believe that the committee has not been provided with such evidence. Our view was supported by many professional trainers.

Professional Dog Trainers Australia said there is no evidence to support this claim, with most studies being surveys of owners looking at punishment training rather than prong collars specifically.

Professional Dog Trainers Australia added that the only study looking at prong collars, done in 2012 by Yasemin Salgirli, found prong collars were more effective and even less stressful for dogs than a force-free quitting signal. Professional Dog Trainers Australia said that of all the restraint devices that can be put around a dog's neck, a prong collar is the least likely to cause injuries because pressure is evenly distributed around the neck.<sup>5</sup>

There was also much confusion created in the community concerning which collars were being banned including choker collars.

The committee received submissions from dog trainers and pet owners which overwhelmingly supported the use of prong collars.

During the inquiry, one large local government changed its stance on opposing prong collars based on the evidence received to the inquiry.

Paws for Hope and Understanding trains services dogs for military veterans and emergency responders suffering from post-traumatic stress. They use prong collars, or 'correction collars', to train dogs that go on to change the lives of their owners.<sup>6</sup>

Stian Berg of Beautiful Beasts Dog Training states that banning prong collars reduces training tools to modify behaviour, leading to dogs being euthanized, when, with the right tools, they could have been rehabilitated.<sup>7</sup>

The International Association of Canine Professionals states that 'any restraint device can cause injury or pain. It is unreasonable to prohibit the ownership or use of a device because the user does not know how to properly operate it, and anyone intent to cause injury and pain will not require any device to do so.'<sup>8</sup>

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<sup>4</sup> Explanatory notes, p 25.

<sup>5</sup> Public hearing transcript, Brisbane, 14 June 2022, pp 33-34.

<sup>6</sup> Paws for Hope and Understanding, submission 370, p 1.

<sup>7</sup> Beautiful Beasts Dog Training, submission 853, p 5.

<sup>8</sup> International Association of Canine Professionals, submission 859, p 3.

The International Association of Canine Professionals adds that ‘though visually prong collars may seem frightening, when used as designed they are one of the most humane ways of communicating with dogs.’<sup>9</sup>

The Member for Scenic Rim forwarded correspondence from a constituent. It says that ‘as a dog trainer and owner of highly driven sport dogs, the use of a prong collar is absolutely essential.’<sup>10</sup>

Dog Training Queensland shared many successful client stories with the committee. One client, Mr Baker is the owner of Bailey, a 1 year-old Newfoundland puppy that weighs approximately 65 kilograms. Mr Baker said that Bailey is not dangerous and runs away from loud noises or other dogs that are aggressive or unrestrained.

Mr Baker told us that before using a prong collar, Bailey had pulled him over completely several times and that a prong collar helps him control Bailey.

Mr Baker believed that without a prong collar, he is at risk of injury from further falls, and that he is at greater risk of internal injuries following recent surgery.<sup>11</sup>

Pronged collars are banned under federal laws, unless given specific approval by the Minister for Home Affairs. Therefore, they either don’t exist or are illegal if they haven’t been approved. If the pronged collar has been approved by a federal minister there would be a reason for such approval.

This raises a concern as to why the State would seek to contradict how the federal government are currently regulating the use of prong collars.

In our view, the ban was a last-minute inclusion after somebody contacted the Premier via Facebook, and she agreed that they should be banned.

We hold the view that legislating a ban is overreach and any banned collars of any sort should be by regulation. We have outlined alternate approaches in the recommendations below which would deliver a more sensible and measured approach to prong collars.

Consideration should be given to allowing a class of trainers or owners under supervision to continue using these collars for dogs that can’t be controlled any other way and may otherwise be euthanised.

There was clear evidence from Professional Dog Trainers Australia that pronged collars do not cause pain or injury when used properly.

The Member for Lockyer in the public inquiry attached a pronged collar on his arm and discovered that the design of the collar is not a choking action, but a controlled two-sided pull system that brings both sides of the collar together at once. No pain was experienced under very heavy load because the product has been designed not to choke and not to injure.

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<sup>9</sup> International Association of Canine Professionals, submission 859, p 3.

<sup>10</sup> Jon Krause MP on behalf of a constituent, submission 1445, p 1.

<sup>11</sup> Mr Lee Baker, submission 16, p 6.

Other options for control or prohibition of these collars that could have been open to the committee include:

- Banning collars that are not allowed to be imported; and/or
- Making the ban of prong collars part of regulation so that a review of the Act is not necessary to adjust the ban; and/or
- Prohibiting the use of pronged collars with the exception of a class of professional trainers of owners trained in the use of the collar.

We believe that these options provide a more sensible policy approach, to enhancing the welfare of animals and therefore make the following recommendations.

### **Opposition recommendations**

That the pronged collars be prohibited with the exception of a class of professional trainers or owners who have been trained in the use of the collar.

This would see only professional dog trainers and dog owners interested in learning how to handle their dogs being able to use these collars.

### **Pig poison**

The Bill proposes a ban on using poison that contains carbon disulphide and phosphorous, such as CSSP pig poison, for pest and feral animals.

AgForce opposed this ban. In its submission, AgForce stated that its membership spoke highly of CSSP for feral pig control. AgForce stated that governments and landholders require every available tool to manage feral populations, especially in the event of an exotic animal disease outbreak.<sup>12</sup>

Mr William Wilson of AgForce commented that the biggest fears in the industry are foot and mouth disease and lumpy skin disease. Mr Wilson said 'we do need control measures in place and we need as many tools as we can get.'<sup>13</sup>

It was clear that CSSP treatments were cost effective and produced good results, however incorrect or partial doses of CSSP could see animals suffer before dying.

It is clear that the feral pig population is a significant biosecurity threat to Australia. Their capability to spread exotic disease cannot be underestimated.

We believe that the Department should work with industry, including AgForce, to consider our capability to control feral pigs in the light of the real biosecurity threats of foot and mouth disease, lumpy skin disease and Japanese encephalitis.

### **Recommendations**

<sup>12</sup> AgForce, submission 1491, p 5.

<sup>13</sup> Public hearing transcript, Brisbane, 14 June 2022, p 4.

That the Department work with industry to investigate and understand the threat from feral pigs to spread exotic diseases including Foot and mouth, Lumpy skin disease and Japanese encephalitis and our capability to control feral pigs with or without CSSP.

That the Government not ban CSSP until such investigation occurs and industry and Biosecurity Queensland agree that we have capability to control feral pigs without CSSP.

### **RSPCA Activity Agreement**

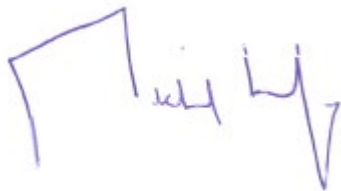
The committee has *encouraged* the Department Agriculture and Fisheries to consider publishing the Activity Agreement with the RSPCA Queensland. The committee could have *recommended* that the Department consider designating any Activity Agreement with the RSPCA Queensland to be a publicly available document, thereby prompting a formal response to this recommendation from the Minister. This is interesting.



**Mr Jim McDonald MP**

**Deputy Chair**

**Member for Lockyer**



**Mr Michael Hart MP**

**Member for Burleigh**

PO Box 1968  
Mount Isa QLD 4825

**Mount Isa**  
74 Camooweal Street  
P: 07 4730 1100

**Charters Towers**  
Stock Exchange Arcade  
2/76 Mosman Street  
P: 07 4787 2139



## Robbie Katter MP Member for Traeger



REF: MO

June 30 2022

Mr Chris Whiting MP  
Chair, State Development and Regional Industries Committee  
Via email: [SDRIC@parliament.qld.gov.au](mailto:SDRIC@parliament.qld.gov.au)

Dear Chair,

### **RE: Statement of Reservation - *Animal Care and Protection Amendment Bill 2022***

I write to provide a Statement of Reservation to the *Animal Care and Protection Amendment Bill 2022*, and indicate my concerns with the recommendation made by the Committee that the Bill be passed in its original form.

In particular, I am concerned that the Committee has failed to adequately address evidence provided during the public consultation period that undermines the validity of blanket bans on 1) The use of poison that contains carbon disulphide and phosphorous (CSSP) on pest animals; and 2) Using/possessing a pronged dog collar.

The use of CSSP poisons, particularly on North and regional Queensland's rampant and destructive feral pig populations, is non-desirable but in my view remains a necessary evil while the currently available methods remain inadequate in successfully controlling the State's growing feral pig populations.

While the Committee report outlines that alternative methods to using CSSP such as sodium nitrite, 1080 baits, trapping, and ground and aerial shooting remain available, the current use of and public funding provided to these approaches remain manifestly inadequate and my concern, echoed by AgForce in its submission to the Bill, is that consultation on this issue has been insufficient. I therefore oppose this ban until such consultation has occurred.

I also strongly object to the blanket ban on pronged dog collars as I have become convinced, based on the evidence provided mostly by professional animal trainers during the public consultation period, that this measure is completely unfounded and is politically motivated. There is a severe lack of evidence to support that this ban will result in net-benefits for the welfare and training success of animals, some of which cannot be effectively managed or trained through other methods.

As an aside, I confer that this Bill – and therefore the Committee's endorsement of it – manifestly fails to address the legitimate and growing community concerns that relate to the suitability of the RSPCA to remain the delegated authority that enforces the *Animal Care and Protection Act* in Queensland. I, and the KAP, strongly argue that the RSPCA should have any legal authority it has under this *Act* revoked.

I would like to put in writing that I join with my non-Government Committee colleagues who have argued that that the Department of Agriculture and Fisheries should consider designating any Activity Agreement it has with the RSPCA Queensland to be a publicly-available document.

I also indicate my view, which is shared across numerous Queensland communities, that locally-run, independent animal welfare organizations are often far more effective when it comes to protecting, rehabilitating, and re-homing domestic and native animals in need.

These groups should be considered as conduits to improving animal welfare in our State and I would argue that the Queensland Government should make efforts to empower, and potentially fund, these groups where appropriate.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Robbie Katter', with a long horizontal flourish extending to the right.

**Robbie Katter**  
Member for Traeger