Parliamentary Committees

Agriculture and Forestry Legislation Amendment Bill 2013

Report No. 26
Agriculture, Resources and Environment Committee
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Acknowledgements

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Contents

Abbreviations and definitions

ACDC Act	*Agricultural Chemicals Distribution Control Act 1966*
ACP Act	*Animal Care and Protection Act 2001*
Ag Standards Act	*Agricultural Standards Act 1994*
ALQ	Animal Liberation Queensland
AMCD Act	*Animal Management (Cats and Dogs) Act 2008*
AVA	The Australian Veterinary Association Limited
BSE	Bovine Spongiform Encephalopathy
CEO	Chief executive officer
CWD	Chronic wasting disease
DAFF	Department of Agriculture, Fisheries and Forestry
Forestry Act	*Forestry Act 1959*
Land Protection Act	*Land Protection (Pest and Stock Route Management) Act 2002*
LCC	Logan City Council
LGAQ	Local Government Association of Queensland
NRVR	National Recognition of Veterinary Registration Scheme
PIMC	Primary Industries Ministerial Council
QA	Quality assurance
QCAT	Queensland Civil and Administrative Tribunal
QFF	Queensland Farmers' Federation
RAM	Restricted animal material
RFB	ruminant feed ban
RRA Act	*Rural and Regional Adjustment Act 1994*
RSPCA	Royal Society for the Prevention of Cruelty to Animals
SEQRAMG	South East Queensland Regional Animal Management Group
SO	Standing Orders
TRADAC	Timber Research and Development Advisory Council
TSEs	Transmissible spongiform encephalopathies
VS Act	*Veterinary Surgeons Act 1936*
VSB	Veterinary Surgeons Board of Queensland

Chair's foreword

This report presents the findings from the committee's inquiry into the Agriculture and Forestry Legislation Amendment Bill 2013 introduced on 21 May 2013 by Hon John McVeigh MP, Minister for Agriculture, Fisheries and Forestry.

I commend the report to the House.

Ian Rickuss MP
Chair

August 2013

Recommendations

1. Introduction

Role of the committee

The Agriculture, Resources and Environment Committee (the committee) is a portfolio committee established by a resolution of the Legislative Assembly on 18 May 2012. The committee's primary areas of responsibility are agriculture, fisheries and forestry, environment and heritage protection, and natural resources and mines.[1]

In its work on Bills referred to it by the Legislative Assembly, the committee is responsible for considering the policy to be given effect and the application of fundamental legislative principles.[2]

In relation to the policy aspects of Bills, the committee considers the policy intent, approaches taken by departments to consulting with stakeholders and the effectiveness of the consultation. The committee may also examine how departments propose to implement provisions in Bills that are enacted.

Fundamental legislative principles are defined in Section 4 of the *Legislative Standards Act 1992* as 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 and the institution of Parliament.

The referral

On 21 May 2013, Hon John McVeigh MP, Minister for Agriculture, Fisheries and Forestry, introduced the Agriculture and Forestry Legislation Amendment Bill 2013. The Legislative Assembly referred the Bill to the committee for examination and report. The committee was given until 19 August 2013 to table its report to the House, in accordance with SO 136(1).

The committee's processes

In its examination of the Bill, the committee:

- identified and consulted with likely stakeholders on the Bill
- sought advice from the Department of Agriculture, Fisheries and Forestry (DAFF) on the policy drivers for each amendment proposed, a summary of consultation undertaken, and details of the outcomes of that consultation. The written brief prepared for the committee by DAFF is available from the committee's website
- invited public submissions on the Bill
- sought expert advice on possible fundamental legislative principle issues with the Bill
- sought further advice from DAFF on the issues raised in submissions and possible fundamental principles issues with the Bill
- convened a private briefing by departmental officers on 5 June 2013, and
- convened a public briefing and public hearing on 7 August 2013.

A list of submitters to the committee's examination of the Bill is at **Appendix A**.

Briefing officers and hearing witnesses are listed at **Appendix B**.

[1] Schedule 6 of the Standing Rules and Orders of the Legislative Assembly of Queensland as at 1 January 2013.
[2] Section 93 of the *Parliament of Queensland Act 2001*.

2. Examination of the Agriculture and Forestry Legislation Amendment Bill 2013

Policy objectives and consultation

The objective of the Bill is to make amendments to the following eight Acts administered within the Agriculture, Fisheries and Forestry portfolio:

1. *Agricultural Chemicals Distribution Control Act 1966*
2. *Agricultural Standards Act 1994*
3. *Animal Care and Protection Act 2001*
4. *Animal Management (Cats and Dogs) Act 2008*
5. *Forestry Act 1959*
6. *Land Protection (Pest and Stock Route Management) Act 2002*
7. *Rural and Regional Adjustment Act 1994, and*
8. *Veterinary Surgeons Act 1936.*

The following sections discuss the proposed amendment to each of the eight acts. The background information is based on advice prepared by DAFF in a written briefing for the committee.[3]

Agricultural Chemicals Distribution Control Act 1966

Part 2, clauses 3-21, deal with amendments to the *Agricultural Chemicals Distribution Control Act 1966* (ACDC Act) which provides for the control of the distribution of agricultural chemicals from aircraft and from ground equipment. Among other matters, the ACDC Act establishes (under section 8), the Agricultural Chemicals Distribution Control Board and prescribes its powers to grant or refuse the issue of licences for the aerial or ground distribution of agricultural chemicals. There has, however, been no board since the last board expired on 7 December 2007. Since then, most of the board's functions have been performed by departmental officers.

The proposed amendments to the *Agricultural Chemicals Distribution Control Act 1966* will abolish the Agricultural Chemicals Distribution Control Board and transfer the relevant functions to the chief executive of DAFF. This is in line with the findings of a review of the board as part of the Review of Queensland Government Boards, Committees and Statutory Authorities in 2008 (otherwise known as the Webbe-Weller Review[4]).

Only one submission from the Queensland Farmers' Federation commented on the proposed amendments to the *Agricultural Chemicals Distribution Control Act 1966*, and it supports the proposed amendments.

Agricultural Standards Act 1994

Part 3, clauses 22-24, deal with amendments to the *Agricultural Standards Act 1994* (Ag Standards Act). This Act provides for the making of agricultural standards and provides appropriate powers to ensure the standards are complied with.

The proposed amendments to the Ag Standards Act relate to the enforcement of the national ruminant feed ban (RFB) which bans the feeding of restricted animal material to ruminants (cattle, sheep, goats etc) to prevent the spread of transmissible spongiform encephalopathies (TSEs). Most notable among TSEs is Bovine Spongiform Encephalopathy (BSE) or 'mad cow disease' which can

[3] Department of Agriculture, Fisheries and Forestry, 2013, *Agriculture and Forestry Legislation Amendment Bill 2013 (AFLA Bill) - written briefing for the Agriculture, Resources and Environment Committee of the Queensland Parliament.*

[4] The terms of reference for the review by Ms Simone Webbe and Professor Patrick Weller AO, as well as submissions, reports and the government's response are available from the Department of Premier and Cabinet website at http://www.premiers.qld.gov.au/publications/categories/reviews/boards-committees.aspx

have devastating effects on humans and livestock. Australia is currently free of TSEs that affect animals in other countries.

The RFB is the most critical component of a comprehensive national TSE freedom assurance program and is designed to minimise the risk of spread of TSEs throughout the food chain. A ban on feeding certain animal-derived products to ruminants will ensure that if TSEs were to enter Australia they would not spread within domestic stock.

The feeding of all meals from vertebrates, including meat and bone meal, to ruminants was banned by Australian state and territory governments voluntarily in 1996, and by legislation in 1997. In 2001, the then Primary Industries Ministerial Council agreed to adopt the term 'restricted animal material' (RAM) in their respective legislation to describe animal meals or tissues that cannot be fed to ruminants. RAM is any meal or tissues derived from animal origin including fish and birds.

The national RFB program is underpinned by inspections and audits, including routine sampling and testing of ruminant stock food for the presence of RAM. In Queensland, these activities are conducted under the Ag Standards Act, in particular, section 20 (Entry to places) and section 24 (Entry to vehicles).

The proposed amendments in this Bill address a gap in the legislation by providing additional grounds for which entry may be gained by an inspector to conduct proactive compliance checks.

Section 20 is currently structured such that an inspector may enter a place only under particular circumstances:

- if it is a public place and the entry is made when the place is open to the public, or
- to gain the occupier's consent or
- on consent of the occupier or under a warrant.

Section 20(1)(e) further prescribes that entry may be made to a place if it is other than a private residence and the entry is made to:

(i) check compliance with the Act about the content, labelling or sale of food for stock and

(ii) for the purpose of preventing the introduction of an exotic disease into the State or controlling the spread of an exotic disease.

These amendments will ensure inspectors have entry powers to undertake the routine testing of stock feed necessary to properly enforce the RFB.

Only one submission from the QFF commented on the proposed amendments to the *Agricultural Standards Act 1994*, and it supports the proposed amendments.

Animal Care and Protection Act 2001

Part 4, clauses 25 & 26, deal with amendments to the *Animal Care and Protection Act 2001* (ACP Act). The provisions of this Act are designed to promote the responsible care and use of animals, and to protect animals from cruelty. Section 18 of the ACP Act prescribes that a person must not be cruel to an animal, and establishes a maximum penalty for an offence against this section of 1,000 penalty units or two years imprisonment.

The proposed amendments to the Act will increase the maximum penalties for cruelty to animals to 2,000 penalty units and a maximum term of imprisonment of three years. These are the maximum penalties that can be considered by a Magistrates Court for summary offences.

The proposed amendments give effect to the Government's election commitment No. 484 which requires DAFF to:

> *…ensure animal cruelty perpetrators don't just get away with a warning or a small fine that leaves their offending behaviour untreated. When the Police or RSPCA catch those involved, the courts should impose penalties that act as both a punishment and a deterrent.*

Animal welfare groups, in particular the Royal Society for the Prevention of Cruelty to Animals (RSPCA), had campaigned for stiffer penalties for animal cruelty offences. The Parliamentary Library prepared a useful **brief** on the topic in 2011.

In their submissions, the QFF and Animal Liberation Queensland (ALQ) supported the proposed amendments to the *Animal Care and Protection Act 2001.* A further issue was raised by ALQ about the penalties that are actually imposed by the Courts on offenders for animal cruelty offences, but this is outside of the scope of the Bill.

Animal Management (Cats and Dogs) Act 2008

Part 5 Divisions 1-3 clauses 27 – 53, and Schedule 1 of the Bill deal with amendments to the *Animal Management (Cats and Dogs) Act 2008* (AMCD Act). This Act provides for the identification, registration and management of cats and dogs.

Part 5 Division 2 of the Bill proposes to repeal state-wide cat registration requirements and empower local governments to decide whether cat registration is necessary within their constituency. The Bill also seeks to streamline the processes relating to destruction orders for dogs. These issues are discussed separately below.

Cat registration

According to DAFF, state-wide mandatory cat registration is opposed by many local governments on the basis that:

- the issues associated with the keeping of cats are impracticable for many local governments to effectively address
- it does not yield appreciable benefits for its constituents, despite revenue earnings to fund animal management programs, and
- micro-chipping achieves the same outcome more effectively and at lower cost.

The Logan City Council (LCC) and Animal Liberation Queensland (ALQ) commented on the proposed amendments affecting cat registration requirements. In their submission, ALQ state that as a result of councils discontinuing cat registration, there will be an increase in unregistered cats which may contribute to an increase in feral cat populations and/or an increase in cat euthanasia rates.

The LCC strongly opposes the removal of mandatory cat registration requirements. The council similarly argues that removing the requirements will lead to increased euthanasia rates for cats. The council proposes the introduction of mandatory state-wide de-sexing of all cats. They also propose a comprehensive review of the Act to address anomalies they have identified including:

- the need for provide councils with more enforcement tools such as the ability to issue 'direction orders' or 'notices to comply'. This would complement their ability to issue Penalty Infringement Notices and to prosecute offences under the Act
- the inability of councils to refuse or cancel/revoke animal registrations, or to issue a notice to require a person to register an animal, and
- the need to make animal registration obligations commence at the point of sale.

In its advice on the submissions, DAFF commented that removing state-wide mandatory registration is unlikely to materially decrease de-sexing rates, and noting that a Cat and Dog Ownership Survey in 2012 found that the likelihood of having a de-sexed cat did not differ between households with or without a council registered cat.

In response to the LCC's request for a comprehensive review of the Act, DAFF advised that it intends to consider the council's suggestions together with other proposals raised with the department by the South East Queensland Animal Management Group (SEQRAMG) and in submissions responding to a 2012 discussion paper *Management of dangerous and potentially dangerous dogs in Queensland*.[5]

Dog declarations and destruction orders

The AMCD Act empowers councils, in certain circumstances, to issue a destruction order for a dangerous dog. However a destruction order cannot be made for a dog unless the dog has first been declared by the council to be a 'regulated dog'. The AMCD Act provides that councils can do this by making one of three types of regulated dog declarations about the dog: a dangerous dog declaration, a menacing dog declaration, or a restricted dog declaration.

At present, dog declarations and destruction orders for dogs made by councils are subject to separate internal reviews and then Queensland Civil and Administrative Tribunal (QCAT) hearings. This can potentially lead to two separate reviews and two separate QCAT hearings - a process that may run into months or even years. During this time, the dog which is subject to the declarations continues to be held by the council at considerable cost to both the council and the dog's owner, and potentially putting the welfare of the dog at risk. Providing for two separate external reviews also increases QCAT's caseload.

Part 5 Division 3 of the Bill proposes amendments to the AMCD that will in effect allow a council to make a regulated dog declaration and destruction order concurrently and allow the decisions to be considered together in a single internal and a single external review. The owner would still be entitled to have both decisions reviewed, but the reviews at each level would be concurrent.

The proposed amendments were canvassed in a discussion paper *Management of dangerous and potentially dangerous dogs in Queensland* released for public comment in February 2012 by the then Department of Local Government and Planning. Approximately 100 submissions were received in response to the discussion paper from a broad cross section of the community, including local governments, animal welfare groups, dog enthusiast groups, dog owners and the Australian Veterinary Association (AVA). The submissions overwhelmingly supported streamlining internal and external review processes and thereby shortening the timeframe that a dog may need to be held pending the outcome of reviews.

The LGAQ has advocated for amendments to the AMCD Act to streamline the process for issuing destruction orders and it supports the proposed amendments.

Other issues

In its submission, Dogs Queensland commented on an apparent loophole in the Act that may be used by people to avoid prosecution for selling puppies less than eight weeks of age that have not been micro-chipped or vaccinated. The submission advocates that the Act be amended to address the problem.

In its written briefs for the committee and at the committee's public hearing on 7 August 2013, DAFF officers advised that the Act already effectively prohibits this practice and that the continuing sale of puppies contrary to the Act is a compliance matter for the department.

[5] Department of Local Government and Planning, 2012, *Management of dangerous and potentially dangerous dogs in Queensland - Civil liability and other issues associated with the regulated dog provisions of the Animal Management (Cats and Dogs) Act 2008* <http://dsdip.qld.gov.au accessed 12.8.13).

Recommendation 1

That the department examines options to increase compliance activities in relation to the sale of dogs and cats not implanted with a personal identification device (micro-chipped) as required under the *Animal Management (Cats and Dogs) Act 1983*.

Forestry Act 1959

Part 6, clauses 54-56, of the Bill deals with amendments to the *Forestry Act 1959* (Forestry Act). This Act provide for forest reservations, the management, silvicultural treatment and protection of state forests, and the sale and disposal of forest products and quarry material, the property of the Crown on state forests, timber reserves and on other lands.

The proposed amendments to the Forestry Act in the Bill will omit Part 9 of the Act which is now superfluous. This relates to the winding up of the former Timber Research and Development Advisory Council (TRADAC) and the transfer of its assets and liabilities to Timber Queensland Limited, a non-statutory industry-owned company. This transfer was completed over a decade ago and, consequently, the provisions of Part 9 ceased to be of any further effect from that time.

No submitters commented on the proposed amendments to the Forestry Act.

Land Protection (Pest and Stock Route Management) Act 2002

Part 7, clauses 57-71, of the Bill deal with amendments to the *Land Protection (Pest and Stock Route Management) Act 2002* (Land Protection Act). This Act provides for the management of particular pests on land and the management of the stock route network and other purposes.

Section 10 of the Land Protection Act prescribes that the chief executive must have separate state pest management strategies for animals and plants to direct and coordinate pest management activities in the state. Section 12 of the Land Protection Act further provides that a state pest management strategy has effect for no more than five years.

The Bill would provide for one Queensland Weed and Pest Animal Strategy instead of separate animal and plant pest management strategies.

In its submission QFF supported the proposed amendments. No other comments were raised with the committee.

Rural and Regional Adjustment Act 1994

Part 8, clauses 72-78, of the Bill deal with the *Rural and Regional Adjustment Act 1994* (RRA Act). This Act provides for the establishment of an authority, the QRAA, to give assistance to rural and regional producers and certain small businesses, and for related purposes.

The proposed amendments to this Act are in response to recommendations from a review completed in 2010. The review report was tabled in the Legislative Assembly on 21 September 2010.[6] In his introductory speech for the Bill, Hon John McVeigh MP, Minister for Agriculture, Fisheries and Forestry explained:

> *The act has been reviewed in terms of its scope and the adequacy of QRAA's functions, powers, governance and administration arrangements. In response to the review outcomes, the bill amends the act to enhance QRAA's operational efficiency by allowing it to also administer parts of interstate schemes, streamline the appointment of, and delegation of powers by, the QRAA chief executive officer and clarify the requirements for future review of*

[6] Department of Agriculture, Fisheries and Forestry, 2013, *Agriculture and Forestry Legislation Amendment Bill 2013 (AFLA Bill), Written briefing for the Agriculture, Resources and Environment Committee of the Queensland Parliament*, p.14

> *the act. To ensure that its provisions remain current and appropriate, the bill also provides that the act is to be reviewed at least once every ten years.*[7]

The review report recommendations are implemented in the RRA Act amendments in the following clauses to the AFLA Bill 2013:-

- **Clauses 73 and 74** bring into effect a change to the scope of QRAA's role to include the administration of parts of schemes. This could include conducting financial analysis of applications for assistance, review of interstate schemes and providing advice on applications. The matter to expand the scope of QRAA's role was raised by QRAA itself in the review of the Act.
- **Clause 75** amends the process for the authorisation of interstate schemes to include parts of schemes. The authorisation process for interstate schemes and parts of schemes are the same.
- **Clause 76** brings into effect the change in the appointment process for the acting chief executive officer (CEO). The acting CEO performs the role of the CEO when the CEO is absent. This matter was also raised by QRAA during the review of the Act.
- **Clause 77** inserts a provision making explicit the delegation powers of the CEO. This power allows the CEO to delegate functions under part 3A of the Act in respect of reviews of decisions. This matter was raised by QRAA during the review of the Act.
- **Clause 78** makes explicit the requirement for future reviews of the Act. Clause 78 will require that an initial review of the Act is conducted within ten years of 1 July 2013, and then subsequently within ten years after tabling of the first review report.

In its submission, QFF supports the broadening of the role of the QRAA and improvements in the governance arrangements. In other work, QFF have advocated for providing the QRAA structure with more flexibility to deal with a wider range of programs that are not limited to financial assistance programs.

In its advice on the submissions, DAFF commented that the involvement of QRAA in these types of non-financial programs would be a significant departure from its area of expertise, outside of the objectives of the RRA Act and outside of the scope of the Bill.

Veterinary Surgeons Act 1936

Part 9, clauses 79-94, of the Bill deal with amendments to the *Veterinary Surgeons Act 1936* (VS Act). This act relates to the qualifications and registration of veterinary surgeons and the regulation and control of the practice of veterinary science.

The amendments to the VS Act proposed in the Bill provide for Queensland's participation in the National Recognition of Veterinary Registration Scheme (NRVR). [8] They also introduce a requirement that veterinary surgeons provide their emergency contact details to the registrar of the VSB and ensure those contact details are updated within 21 days of any change.

Implementation of the National Recognition of Veterinary Registration Scheme (NRVR)

It is proposed that the *Veterinary Surgeons Act 1936* be amended to include a section that requires the Veterinary Surgeons Board of Queensland (VSB) to notify the equivalent registering authority in each other jurisdiction of any professional misconduct by a veterinary surgeon, any veterinary

[7] McVeigh, JJ. 2013 *Explanatory Speech – Agriculture and Forestry Legislation Amendment Bill 2013*, available http://www.parliament.qld.gov.au/documents/tableOffice/BillMaterial/130522/Agriculture.pdf

[8] Information on the National Recognition of Veterinary Registration Scheme is available at the website of the Department of Agriculture, Fisheries and Forestry http://www.daff.qld.gov.au.

surgeon convicted of an offence which renders the person no longer fit to practise, and any veterinary surgeon who is medically unfit to practise.[9]

The amendments to the VS Act in regard to NRVR reflect a previously agreed national scheme that developed in consultation with the veterinary profession.

The department has indicated that it is hoped the amendments are completed as soon as possible in order to meet Queensland's obligations to the former Primary Industries Ministerial Council (PIMC) to legislate for the recognition of interstate registration of veterinary surgeons and specialists.

Submissions made to the committee are broadly supportive of the NRVR amendments.

The provision of emergency contact details

Clause 92 inserts a new section 26 (Notice about change in contact information) and new section 27 (Veterinary surgeon to provide emergency contact details) into the VS Act. Clause 93 inserts new section 29C (Registrar must give emergency contact details to chief executive).

The intent of these proposed amendments to the VS Act is to significantly improve communication between veterinary surgeons and Biosecurity Queensland during a biosecurity emergency. The issue of communication with veterinary surgeons and access to emergency contact details was considered by the Queensland Ombudsman in a 2011 report from an investigation into agency responses to Hendra virus incidents between January 2006 and December 2009.[10] In the report, the Ombudsman recognised that the responsibility for communicating with veterinary surgeons about biosecurity responses remained with Biosecurity Queensland and not the VSB. The report recommended that registration forms for veterinary surgeons be amended to make it a condition of registration that the emergency contact details of each veterinary surgeon be supplied to the Registrar of the VSB. The report also recommended that emergency contact details be made available for immediate use by Biosecurity Queensland during and emergency response.

The proposed amendments will compel veterinary surgeons to provide emergency contact details to the registrar of the VSB and ensure the details are updated within 21 days of any change. In the amendment of the Schedule at clause 94, emergency contact details for a veterinary surgeon or an applicant for registration as a veterinary surgeon, are defined as:

> *...a telephone number and email address at which a veterinary surgeon or applicant may be contacted immediately, during or outside of ordinary business hours, for a purpose mentioned in section 29C.*

Both the VSB and the Australian Veterinary Association (AVA) made submissions to the committee on the changes to the VS Act, and both parties were also represented at the committee's public hearing.

In their submission to the committee, the VSB raised concerns about the proposed changes to requirements for provision of emergency contacts, and particularly the penalty provision. The VSB stated that it already provides Biosecurity Queensland with a current list of veterinary surgeons, the purpose of which is to provide their emergency contact details in the event of an emergency disease outbreak.

In their advice on issues raised by submitters, DAFF acknowledged that the current significant voluntary compliance was an excellent interim solution, but still argued that the compulsory measures are necessary. They advised the committee that:

> *The concern remains that if the legislation is not put in place, voluntary compliance may decline because there is a reduced incentive to maintain this rate of compliance. Voluntary*

[9] Explanatory Notes, Agriculture and Forestry Legislation Amendment Bill 2013, p.4.

[10] Queensland Ombudsman, 2011, *An investigation into agency responses to Hendra virus incidents between January 2006 and December 2009*. <http://www.ombudsman.qld.gov.au accessed 9 August 2013>

> *compliance may be high at this point because of the desire by the VSB to avoid the legislative provision being implemented.*
>
> *If the legislative provision does not proceed and voluntary compliance declines, the department will be back in the position of not having access to emergency contact details.*[11]

In its submission, the AVA was critical of the proposed changes to the emergency contact provisions and argued that:[12]

1. the legislation change is unnecessary
2. the legislation will not have any significant impact on the control of animal disease, pets or workplace health and safety
3. the disease alerts will not reach all veterinarians
4. the broad brush of the reasons given to access the private information of veterinarians is far reaching and so general that it could be something quite trivial to allow many departments to initiate a demand
5. the resources of the board, completely paid for by registered veterinarians (apart from overheads) will then be used for purposes other than what the Act specifies and may result in a requirement to raise the registration fee to accommodate these requests
6. the legislation breeches the fundamental legislative principle stated in the explanatory notes i.e. Legislation should have sufficient regard to rights and liberties of individuals – LSA section 4(2)(a)
7. to the AVA's knowledge, no other profession in Queensland or indeed Australia is required by legislation to give private details of their after-hours contacts for purposes other than the registration of its professionals, and
8. it increases red tape and is not consistent the current government's policy of removing unnecessary legislation.

The department refuted these arguments in their advice on the submissions. This advice is at Appendix A.

The AVA also raised concerns about the proposed changes during the public hearing. They stated that:

> *The proposed legislation is unnecessary, ineffective and breaches the fundamental legislative principles stated in the explanatory notes, that is, legislation should have sufficient regard to the rights and liberties of individuals. The AVA is strongly supportive of government communicating with the veterinarians, but believes it should do so within the privacy provisions of the law.*[13]

The AVA supported for the concept of an emergency contact register, whilst still having concerns around:

- the compulsory nature of the proposed provisions
- the penalty associated with not providing emergency contacts, and
- a the issue that some veterinary surgeons would have good reasons (such as domestic violence orders etc.) for being reluctant to provide private contact information.

When questioned by the committee during the hearing, Dr Dowling of the AVA indicated that:

[11] Department of Agriculture, Fisheries and Forestry, C*orrespondence*, 15 July 2013.
[12] Australian Veterinary Association Limited, *Submission No.5*.
[13] Australian Veterinary Association Limited, *Draft Public Hearing Transcript*, p.1.

…the clinic number would be a better way, but at this stage it [the provision] is for individual numbers… a register of clinics would be a great idea, so then they can disseminate to the vets on duty.

…The main objection we have is that we do not know any other group that has a legal requirement to provide an emergency contact number. We certainly want to be communicated with, but we would like that to be on a voluntary basis and on a number that we choose. It may be our work number not a home number that we want to be contacted on if there is an emergency.[14]

Point for Clarification

The committee acknowledges the importance of swift communications between Biosecurity Queensland and veterinarians in the event of a biosecurity emergency. The committee also acknowledges the practical and privacy concerns and sensitivities raised by the Australian Veterinary Association on behalf of its members about the proposed laws. The committee invites the Minister to clarify whether the legal obligations on veterinarians to provide emergency contact details proposed in the Bill could be satisfied by veterinarians providing the most appropriate contact details for their practices or clinics, or after hours paging or answering services instead of providing their personal mobile phone numbers or email addresses.

The committee also invites the Minister to clarify the safeguards that will be put in place to ensure that veterinarians' private contact details will only be used for the purposes specified in the Bill.

Recommendation 2

The committee recommends that the Department of Agriculture, Fisheries and Forestry liaise with the Veterinarian Surgeons Board to establish a process for veterinarians and applicants for registration to nominate their most appropriate point of contact for receiving biosecurity alerts.

[14] Australian Veterinary Association Limited, *Draft Public Hearing Transcript*, p.4.

Should the Bill be Passed?

Standing Order 132(1) requires the committee to recommend whether the Bill should be passed. After examining the form and policy intent of the Bill, the committee determined that the Bill should be passed.

Recommendation 3

The committee recommends that the Agriculture and Forestry Legislation Amendment Bill 2013 be passed.

3. Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* 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, and
- the institution of Parliament.

The committee sought advice from DAFF in relation to possible fundamental legislative principles issues affecting clauses 24 & 77 of the Bill. The following sections discuss the issues raised by the committee with DAFF and the advice subsequently provided by the department.

Clause 24 – Amendment of s 24 (Entry to vehicles)

Clause 24 amends the *Agricultural Standards Act 1994*, section 24 'Entry to vehicles' to give an inspector additional powers to enter a vehicle to:

- check compliance with a provision of this Act about the content, labelling or sale of food for stock or
- for the purpose of preventing introduction of an exotic disease into the State or controlling the spread of an exotic disease.

The committee sought to understand the particular inadequacies of existing provisions available to inspectors under the *Stock Act 1915* for dealing with the control of the use of stockfeed containing RAM which the amendments in clause 24 are seeking to address.

The *Stock Act 1915* section 39A creates the offence of feeding or allowing stock to feed on anything with the potential to cause the stock to become infected with an exotic disease. This provision was inserted to 'capture persons who feed restricted materials to stock, such as scrap foodstuffs that contain meat and other animal products that may harbour exotic disease organisms'. The *Stock Act 1915* at section 29 also sets out the powers of an inspector under that Act. The Stock Regulation 1988, section 57(2) creates offences relating to feeding, possessing, supplying and allowing stock to have access to animal matter or animal-contaminated matter. Section 58 of the Stock Regulation 1988 provides that a person must not feed to ruminants feed labelled with a ruminant feed warning statement. Breach of these requirements is a breach of the *Stock Act 1915*.

The committee noted from the Animal Health Website[15] that audits to date suggest extremely high levels of compliance with the ruminant feed ban (RFB).

The committee's request for advice:

The committee's requested advice from DAFF on six issues relevant to clause 24. The following sections list the points raised by the committee for advice and the advice provided in each case by DAFF:[16]

- **The committee sought an explanation of the particular inadequacies of the *Stock Act 1915* and Stock Regulations 1988 in their current form to meet the needs of inspectors monitoring and inspecting stock feed as part of proactive compliance work, including the inspection of vehicles**

[15] Animal Health Australia (Australian Animal Health Council Limited) 2009, *TSE Freedom Assurance Program.* <http://www.animalhealthaustralia.com.au/programs/biosecurity/tse-freedom-assurance-program/australian-ruminant-feed-ban/ accessed 9 August 2013>

[16] Department of Agriculture, Fisheries and Forestry, *Correspondence*, 17 July 2013.

DAFF's response:

The intent of the proposed amendment of the Agricultural Standards Act 1994 is to provide power to inspectors to enter premises and vehicles to undertake the routine testing of stock feed to ensure that restricted animal material (RAM) is not present in stock feed destined for consumption by ruminants. This requirement falls within obligations which are set out in the National Ruminant Feed Ban (RFB).

Australia continues to be free of bovine spongiform encephalopathy (BSE), scrapie of sheep and goats, and chronic wasting disease (CWD) of deer. Australia has implemented a number of measures to prevent the introduction of these diseases and their dissemination and amplification if they were to occur in Australia. The principal rationales for instituting these measures are protecting public and animal health, and the interests of trade.

Australia has an inclusive ban on the feeding to ruminants of all meals, including meat and bone meal (MBM), derived from all vertebrates, including fish and birds. This ban is established by statutory laws in each of Australia's jurisdictions and enforced by official inspections that also take into account quality assurance (QA) schemes that operate within Australia's ruminant livestock industries. These bans act as a fail-safe control measure to rule out the possibility that feeding will amplify the BSE agent derived from any source.

The Stock Act 1915 (the Stock Act) is an Act to amend and consolidate the law relating to diseases in stock. RAM is not a disease nor does it directly cause diseases such as bovine spongiform encephalopathy (mad cow disease). The origin and transmission of mad cow disease is not greatly understood. However it is widely acknowledged that such diseases can be transmitted through the feeding of ruminants with the remains of other animals in the form of meat and bone meals.

AREC correctly points out that section 39A of the Stock Act provides an offence for feeding or allowing stock to be fed with anything which has the potential to cause the animal to become infected with an exotic disease. However, as RAM is not a causative agent for mad cow disease, it would be inappropriate to rely upon this section to prosecute a person who had sold or supplied stock feed contaminated with RAM which is destined for consumption by ruminants. Hence section 39A of the Stock Act is not an appropriate provision to rely on to ensure compliance with the RFB.

Regardless of this constraint, the powers of inspectors under the Stock Act which are prescribed in section 29 do not provide a power for inspectors to sample and test as is required under the national RFB. Subsections 29(c) and (d) allow an inspector to search premises or enter vehicles only if they suspect on reasonable grounds that an offence against the Act has been or is being committed.

They do not provide for routine sampling of stock feed from a number of stock feed premises on an annual basis as is necessary to meet Queensland's obligation under the national RFB. Fulfilment of the obligation to undertake routine sampling and testing could not be achieved if an inspector first had to be satisfied that an offence was or is being committed before a search of a premise or entry to a vehicle was made. Subsection 29(e) of the Stock Act provides that an inspector may inspect, test for disease and treat for disease any stock, animal product, carcass or fodder. This section also does not enable routine sampling and testing under the RFB because, although the definition of fodder does include stock feed, RAM is not a disease of fodder.

Committee comment:

The committee notes and is satisfied by the department's advice.

- **The committee sought an explanation of the provisions of the *Agricultural Standards Act 1994* that are intended to be captured about the content, labelling or sale of food for stock**

  DAFF's response:

  Currently there is no power under the AS Act to allow entry to places to undertake compliance activities that are required under the RFB unless consent to enter is given. There is also no power to enter a vehicle to undertake compliance activities that are required under the RFB.

  The proposed amendment to section 24 (Entry to vehicles) of the Agricultural Standards Act 1994 (the AS Act) will make it consistent with the proposed amended section 20 in that, both sections will contain a ground for entry for the purpose of checking compliance with the Act about the content, labelling or sale of food for stock.

  The proposed amendment to section 24 to expand the powers of entry to vehicles is specifically designed to provide the power to undertake routine sampling and testing of stock feed. Offences under sections 11 and 12 of the AS Act (concerning packing and labelling requirements and misleading representations) may be established as a result of the entry to a vehicle and subsequent inspection however, of most relevance is the offence provision under section 13 (Offence about prohibited materials, harmful ingredients).

  In this regard, section 13(2) of the AS Act provides that a person must not, in trade or commerce in connection with the supply or possible supply of an agricultural requirement, possess an agricultural requirement containing either a prohibited material; or too much of a harmful ingredient. Section 13(2) carries a maximum penalty of 100 penalty units that may be imposed. The Agricultural Standards Regulation 1997 prescribes in Schedule 3, Part 4 the levels of harmful ingredients that may be contained in particular products. The level of RAM prescribed in Schedule 3 that can be contained in stock food to be fed to ruminants, is nil. Consequently, any stock feed which is to be fed to ruminants and is tested and found to contain RAM at any level, is contrary to the AS Act.

  Therefore, an expanded power of entry for inspectors to vehicles under section 24, which would allow a stock feed vehicle to be entered for the purpose of taking a sample of stock food to test for the presence of RAM, may ultimately lead to a prosecution under section 13(2) of the AS Act. A person who sells or supplies stock feed to be fed to ruminants may also be subject to the offences under sections 11 and 12 if those provisions are not complied with.

  The scenario which the amendment of section 24 is specifically designed to address, is as follows:

  Currently under the AS Act, if a stock feed transporter within a stock feed premise has been loaded with stock feed, an inspector may only enter the vehicle if he/she has a suspicion that the vehicle is being or has been used to commit an offence and that the vehicle or something in the vehicle may provide evidence of an offence against the AS Act. Consequently, even if an inspector were to gain entry to the stock feed premise by consent of the occupier, he cannot enter the vehicle at that premise to take a sample of stock feed for analysis, because the inspector may not necessarily have any suspicion of an offence.

  This scenario is totally unacceptable as it compromises the integrity of the national RFB and hinders Queensland's obligation to maintain an audit and inspection program to ensure that stock food destined for consumption by ruminants is free from contamination by RAM.

Committee comment:

The committee notes and is satisfied by the department's advice.

- **The committee sought an explanation of the circumstances under which inspectors may enter vehicles without warrants, and without the consent of the owner of the vehicle or person in control of a vehicle, under the *Stock Act 1915* and under the provisions that are proposed in the Bill**

  DAFF's response:

  Section 29 of the Stock Act provides inspectors' powers under the Stock Act.

  Section 29(1)(c) provides, in part, that an inspector may at any time enter and search any vehicle. This power is constrained (in much the same way to the current section 24 of the AS Act) in that, the inspector may only enter if he suspects on reasonable grounds that an offence against the Stock Act has been or is being committed and that the vehicle or something in it is likely to provide evidence of the offence.

  Sections 32 and 33 also relate to an inspector's powers with regard to vehicles however, these sections specifically relate to matters of disease control. Section 32 deals with the testing, treatment and isolation of stock and treatment of vehicles, whilst section 33 deals with the control of residue disease, consequently these provisions do not assist inspectors to undertake compliance activities required under the RFB.

  The current construction of section 24(1) of the AS Act allows an inspector to enter a vehicle if he suspects that the vehicle is being, or has been, used to commit an offence against the AS Act; and if the vehicle, or a thing in the vehicle, may provide evidence of an offence against the AS Act. Currently, an inspector does not require a warrant nor the permission of the vehicle occupier to gain entry to a vehicle under the AS Act, provided the reasons for entry under section 24(1) are satisfied.

  However, where an inspector does not hold a suspicion of an offence being or having been committed, he cannot enter the vehicle. This is the circumstance that arises where an inspector wishes to gain entry to take a routine sample of stock feed for testing. The proposed amendment of section 24 would not require the inspector to obtain a warrant nor the occupier's consent to enter the vehicle, as is currently the case. The proposed amendment only provides an additional ground upon which an inspector may enter a vehicle, other than having a suspicion of an offence.

Committee comment:

The committee notes and is satisfied by the department's advice.

- **The committee sought an explanation of how the restriction of entry by inspectors to 'commercial' vehicles, as discussed in the Explanatory Notes, will be achieved given the Bill has no explicit limitation of entry powers to commercial vehicles**

  DAFF's response:

  AREC correctly points out that the proposed amendment of section 24 of the AS Act does not explicitly state that the additional power of entry to vehicles is limited to vehicles commercially involved in the transportation of stock feed.

  As has been highlighted, the proposed amendment is being made to address a deficiency in the current provision to enable access by inspectors to stock feed transporters which are at stock feed premises, to take samples of stock feed and test for the presence of RAM. DAFF considers that the provision does not need to refer to commercial vehicles and that the proposed amendment to link the grounds for entry to "check compliance with the Act about the content, labelling or sale of food for stock" is sufficient to limit the vehicles that can be entered under this provision.

  When read in the context of the national RFB, which is underlying this amendment, it would not be reasonable or practical for inspectors to routinely enter private cars for the purposes of taking

samples of stock feed to test for the presence of RAM. In fact, it is doubtful that an inspector would even know if a private vehicle would contain stock feed without it being visible. This would clearly not be the case with a stock feed transporter. It is important to note that a private vehicle can be entered under the existing provisions of s24(1) without a warrant or consent if an inspector suspects that the vehicle is or has been used to commit an offence and something in the vehicle provides evidence of this. The proposed amendment of section 24 does not change this current power.

The intent of the amendment to section 24 is designed to ensure that manufacturers and suppliers of stock feed do not produce and supply stock feed which is contaminated with RAM. However, stock feed transporters (referred to in the Explanatory Notes as examples of commercial vehicles) are also sources of RAM contamination. As stock feed carriers may transport different feeds for different animals (ruminants and non-ruminants), residual amounts of RAM contaminated stock feed may end up mixed with stock feed destined for consumption by ruminants.

DAFF considers that the relationship of the provision with the content, labelling and sale of food for stock therefore, is sufficient to link the power to those vehicles which are involved in the transportation or distribution of stock feed on a commercial basis. However, it is also DAFF's intention that administrative guidelines would be prepared and provided to inspectors to clarify the intent of this provision for the enforcement of the national RFB.

Committee comment:

The committee notes and is satisfied by the department's advice.

- **The committee sought an explanation of whether it is appropriate to give inspectors this new entry power**

  DAFF's response:

  DAFF considers that it is entirely appropriate to amend section 24 of the AS Act to provide inspectors with an expanded power for entry to vehicles. The proposed amendment is designed to ensure that RAM does not circulate in stock feed and thereby exacerbate the spread of devastating diseases such as mad cow, should it ever be introduced into Australia.

  Mad cow disease would have an enormous impact on Queensland's and Australia's domestic and livestock industries with the potential for our export livestock trade to cease entirely. Aside from trade implications, diseases such as mad cow are highly transmissible to humans and the circulation of RAM in stock feed would therefore contribute to a significant human health issue in the event of mad cow disease being introduced into Australia.

  All States and Territories, including Queensland gave an undertaking through the former national Primary Industries Ministerial Council to implement legislation in each respective jurisdiction to give effect to the national RFB. If Queensland does not amend the AS Act to provide a power of entry which will facilitate the routine sampling and testing of stock feed to be undertaken, it will categorically be failing to fulfil its national obligation and compromise the entire national freedom assurance program for transmissible spongiform encephalopathies, of which mad cow disease is but one.

Committee comment:

The committee notes and is satisfied by the department's advice.

- **The committee sought an explanation of whether clause 24 is proportionate and relevant to the problem it seeks to address and whether the clause to the extent that it creates new entry powers has sufficient regard to the rights and liberties of individuals**

  DAFF's response:

  DAFF believes the proposed amendments are proportionate and relevant to the problem. The proposed amendments will ensure inspectors have adequate powers of entry to both premises and vehicles to then subsequently exercise their powers under section 33(1)(d) of the AS Act to take samples of stock feed from the premise or vehicle to test for the presence of RAM.

  DAFF must be assured that RAM does not circulate in the ruminant stock feed supply chain because of the significant impacts RAM poses to human health and livestock industries because of its potential to exacerbate the spread of such transmissible diseases as mad cow.

  Economic modelling in 2007 on a hypothetical case study of a BSE detection in Australia estimated that the net economic cost to the beef industry over a twenty year period would be around $1.9 billion for a 'low end' scenario where export markets close for a short period. If markets closed for two years and domestic consumers also react adversely, the net economic cost to industry was estimated to be around $3.4 billion. In addition to these industry costs, a case of BSE is expected to impose costs on the broader national economy. This gives an indication of the economic importance of ensuring compliance with the RFB – the basis of the proposed amendments.

  With regard to the proposed amendment of section 24 to provide an expanded power of entry to vehicles, DAFF's view is that if this section were amended to provide unconditional authority (carte blanche power) to inspectors to enter vehicles i.e. without reference to having suspicion, or any other matter, this would be inappropriate and disproportional to the problem. DAFF agrees in that circumstance there would be insufficient regard to the rights and liberties of persons. Justification for an amendment to that extent to ensure that Queensland fulfils its national obligation to preserve the integrity of the sampling and testing regime under the national RFB could not be sustained.

  The impact on the rights and liberties of persons by the proposed amendment to section 24 is mitigated by linking the expanded power to the purpose of checking compliance with the Act about the content, labelling or sale of food for stock. As indicated previously, in the context of maintaining an adequate sampling and testing regime under the national RFB, the fact that this expanded power is linked to checking compliance for specific activities, limits the scope for inspectors to enter vehicles. That is, it is not intended that other vehicles (e.g. private cars) be entered for the purposes of conducting routine sampling and testing.

  As has been acknowledged, the provision does not specifically state any reference to commercial vehicles. Section 24 currently provides for powers of inspectors generally with regard to vehicles under the AS Act. DAFF believes that to amend this section such that it limit the power of inspector's in the conduct of their activities relevant to only one specific program undertaken in their role (the national RFB), is unnecessary and inappropriate.

  Therefore, DAFF believes the limitation of the expanded power to that of checking compliance with the Act is sufficient. However, to provide assurance that the exercise of inspectors' powers under the amended section 24 is consistent with DAFF's intent, operational guidelines will be developed to clarify the purpose of the expanded provision as it relates to inspectors' roles under the national RFB.

  The impact on the rights and liberties of persons is further mitigated under the proposed amendment of section 24 as entry to the vehicle specifically excludes entry to those parts of the vehicle used only as a living area (e.g. the sleeping compartment of a semi-trailer).

To ensure consistency with the current entry provisions to premises under section 20, the proposed amendment of section 24 also includes procedures the inspector must make a reasonable attempt to complete, before the entry is made. These further steps afford the vehicle owner or occupier a degree of natural justice and courtesy and are consistent with entry provisions in other Queensland statutes.

Committee comment:

The committee notes and is satisfied by the department's advice.

Clause 77 – Insertion of new s 35B

Clause 77 inserts a new section 35B into the *Rural and Regional Adjustment Act 1994* to permit delegation of the chief executive officer's functions to an appropriately qualified employee. The committee notes that administrative power should only be delegated in appropriate cases to appropriate persons (*Legislative Standards Act 1992* section 4(3)(c)).

The committee request for advice:

The committee sought assurances that the delegation of the chief executive's functions in new section 35 B of clause 33 is appropriate and has sufficient regard to the rights and liberties of individuals.

DAFF's response:

The recommendation that the Chief Executive Officer (CEO) of QRAA be able to delegate and sub-delegate their functions under the Rural and Regional Adjustment Act 1994 (RRA Act) to appropriately qualified officers of QRAA was recommendation 5 of the Review of the RRA Act. The reasoning behind this recommendation was to provide for efficient and seamless operation of QRAA.

For example, during periods of high demand, such as responding to a natural disaster, the inability to delegate some functions of the CEO, such as the internal review of decisions under Part 3A, potentially draws the CEO away from their immediate and pressing management functions. For decision reviews, only persons with sufficient seniority and experience within the Authority who have not been involved in the initial decision which is subject to review, will be provided a delegation to review a decision.

Therefore, individuals who have sought internal review of decisions can be assured that a review by QRAA of a decision will be done at arm's length without conflict of interest. DAFF have been advised by QRAA that the internal review mechanism contained in Part 3A of the RRA Act has worked well and the delegation provision will not affect the manner in which QRAA conducts its internal reviews (other than the fact that the review could be conducted by a person other than the CEO under delegation).

The other specific function of the CEO that could be delegated is contained in section 35A (CEO to prepare business plan). This provision is an operational function and the ability to delegate it will not affect the rights and liberties of individuals.

Committee comment:

The committee notes and is satisfied by the department's advice.

Appendix A – List of submitters

1. Logan City Council
2. Queensland Farmers' Federation
3. Dogs Queensland
4. Animal Liberation Queensland
5. The Australian Veterinary Association Limited
6. Veterinary Surgeons Board of Queensland

Appendix B – Briefing officers and hearing witnesses

Briefing officers at a private briefing held on 5 June 2013 and a public briefing held on 7 August 2013

Dr Janine Barrett, Principal Veterinary Officer – Animal Biosecurity and Welfare, Biosecurity Queensland

Ms Marguerite Clarke, Acting Manager – Biosecurity Legislation, Department of Agriculture, Fisheries and Forestry

Mr Patrick Coyne, Principal Policy Officer – Legislation and Regulatory Reform, Department of Agriculture, Fisheries and Forestry

Ms Melissa Cummins, Acting Director – Legislation and Regulatory Reform, Department of Agriculture, Fisheries and Forestry

Ms Fiona Ferguson, Manager – Strategy and Legislation, Biosecurity Queensland

Mr Andrew Macey, Principal Policy Officer – Land Management, Department of Agriculture, Fisheries and Forestry

Public hearing witnesses – 12 August 2013

Dr Nigel Thomas, President – Queensland Division, Australian Veterinary Association

Dr Laurie Dowling, Executive Officer – Queensland Division, Australian Veterinary Association

Dr David Lovell, Board Member – Veterinary Surgeons Board of Queensland

Ms Valerie Mustafay, Registrar – Veterinary Surgeons Board of Queensland

Ms Kathryn Dyble, Animal Management Program Leader – Logan City Council

Ms Carolyn Johnson, Manager, Animal and Pest Services – Logan City Council

Mr Mark Sheppard, Government and Agency Liaison Officer – Dogs Queensland

Appendix C – Summary of submissions

This summary compiled by committee staff includes advice provided by the Department of Agriculture, Fisheries and Forestry on the issues raised by submitters.

Cl.	Sub No. and Submitter	Section/[Issue]	Key Points	Departmental response
Consultation Issues and General Comments				
	2. QFF		QFF supports the goal of the Bill; to reduce business and government costs, through the omission of redundant legislation, implementation of the outcomes of legislative reviews and proposed national arrangements all in the one process.	DAFF welcomes QFF's support for the overarching intention of the Bill.
	3. Dogs Queensland		Dogs Queensland have stated that they believe a loophole exists in the legislation. They write; *There is nothing in current Legislation which prevents backyard breeders or puppy farmers from selling a puppy at 6 weeks of age. In fact most of the puppies sold at weekend markets and regional produce stores /* *outlets appear to be around 6 weeks of age and most have not been micro-chipped nor even vaccinated.*	The provisions of the Act which are relevant to this issue (sections 13 and 24) apply equally to cats and dogs. However, as Dogs Queensland (DQ)'s submission relates only to dogs, DAFF's response to this submission refers to dogs. DQ suggests that a loophole exists in the *Animal Management (Cats and Dogs) Act 2008* (AMCDA) which allows backyard breeders to sell puppies at markets without being micro-chipped and avoid prosecution by offering the excuse that to micro-chip the dog would most likely be a serious risk to the animal. This appears to be based on anecdotal evidence from Local Government Animal Management Officers when they make enquiries with sellers at week-end markets and regional produce stores. It is DQ's contention that there is some deficiency in the legislation, as it is currently drafted, which allows this loophole to be exploited by unscrupulous breeders who have no intention of adhering to the law. By way of background, section 13 of the AMCDA states: 13 Supplier must ensure cat or dog is implanted (1) A person must not, unless the person has a reasonable excuse, supply a cat or dog to anyone else if it is not implanted with a PID (permanent identification device). Note— For requirements about implanting a PPID in a cat or dog that is less than 8 weeks old, see section 24 (Age restriction for implanting PPID). Maximum penalty—20 penalty units. (2) It is a defence to a prosecution for an offence against subsection (1) for the defendant to prove— (a) there is a signed veterinary surgeon's certificate for the

Cl.	Sub No. and Submitter	Section/[Issue]	Key Points	Departmental response
				cat or dog stating that implanting it with a PPID is likely to be a serious risk to the health of the cat or dog; or (b) for a dog, the supply is to use it as— (i) a government entity dog; or (ii) a working dog; or (iii) another class of dog prescribed under a regulation. Clearly, in accordance with section 13(1), a person must not supply a dog to anyone else if it is not implanted with a PPID (Prescribed Permanent Identification Device), unless they have a reasonable excuse. Whilst the AMCDA does not define what a reasonable excuse would be for supplying a dog without a Permanent Identification Device (PID), it is DAFF's view that it would not be reasonable (for example) for a supplier to argue that they simply couldn't wait to hold the dog until it was of age before they sold or supplied it and that they wanted to supply the dog whilst it was less than 8 weeks old. According to the legislation as it is currently drafted, unless they have a reasonable excuse, a supplier must wait for the dog to be 8 weeks of age before they implant it with a PID prior to supplying it. Similarly, DAFF's view is that ignorance of the law (i.e. a supplier being unaware of what the law states) is also not a reasonable excuse. Section 13(2) provides defences to a prosecution against section 13(1) such that under section 13(2)(a) the supplier need not implant the dog prior to supply if they prove that a signed veterinary surgeon's certificate for the dog exists stating that implanting it with a PPID is likely to be a serious risk to the dog's health. DQ's submission indicates that suppliers are providing the excuse that implanting dogs they have for sale, will be a serious risk to the dog's health but their submission does not indicate whether veterinary certificates evidencing this opinion are produced or proven to exist, presumably they are not. In relation to micro-chipping dogs, section 24 of the AMCDA states: 24 Age restriction for implanting PPID (1) An authorised implanter must not implant a PPID in a cat or dog that is less than 8 weeks old, unless— (a) the implanter has a reasonable excuse; or (b) the implanter is a veterinary surgeon who considers implanting the PPID is not likely to be a serious risk to the health of the cat or dog; or (c) there is a signed veterinary surgeon's certificate for the

Cl.	Sub No. and Submitter	Section/[Issue]	Key Points	Departmental response
				cat or dog stating that implanting the PPID when it is less than 8 weeks old is not likely to be a serious risk to the health of the cat or dog. Maximum penalty—60 penalty units. (2) It is a reasonable excuse if the cat or dog's owner advised the implanter that it was 8 weeks or older. If sections 13 and 24 are read together, then DAFF's view is that: A person must not supply a dog if it is not implanted with a PPID; and an authorised implanter must not implant a PPID into a dog that is less than 8 weeks of age. As such, DAFF is of the view that a person must not supply a dog under the age of 8 weeks of age as in order to do so, a person must either: • Supply a dog that is not implanted with a PID, which is a breach of section 13 (unless there is a reasonable excuse); or • Supply a dog that was implanted with a PPID when it was less than 8 weeks of age, the implantation of which would have been a breach of section 24 (unless the implanter had a reasonable excuse, was a veterinary surgeon which considered implanting the PPID was not likely to be a serious risk to the health of the cat or dog or there was a veterinary certificate stating that implanting the PPID was not likely to be a serious risk to the health of the cat or dog). The Act provides that it is an offence against section 13 for the supplier, without a reasonable excuse, to supply a dog without a PID and it is an offence against section 24 for an implanter, without a reasonable excuse or in certain other circumstances, to implant a dog under the age of 8 weeks. Additionally, if the supplier implants a dog with a PPID, then they commit an offence against section 21 which provides that a person, other than an authorised implanter, must not implant a PPID in a dog. DQ's assertion therefore that "There is nothing in current Legislation which prevents backyard breeders or puppy farmers from selling a puppy at 6 weeks of age" is therefore incorrect. It is also DAFF's view that the loophole which DQ suggests is currently being used

Cl.	Sub No. and Submitter	Section/[Issue]	Key Points	Departmental response
				does not in fact exist. It is possible that any avoidance of the law by suppliers of dogs or failure to prosecute offenders may be based upon a distorted interpretation of the current legislation.
Part 1 - Preliminary				
Part 2 - Amendments to the *Agricultural Chemicals Distribution Control Act 1966*				
	2. QFF	Part 2	QFF supports the amendment to abolish the Agricultural Chemicals Distribution Control Boards and the transfer of the relevant functions to the chief executive of the Department of Agriculture, Fisheries and Forestry	QFF's support for the amendment is noted.
Part 3 - Amendments to the *Agricultural Standards Act 1994*				
	2. QFF	Part 3	QFF supports the proposed amendment to adequately enforce the national Ruminant Feed Ban (RFB). QFF notes that there have been gaps in the ability for Queensland inspectors to enter vehicles for inspections to check compliance against the provisions of the Act. QFF is supportive of measures that prevent the introduction and/ or control the spread of an exotic disease in Queensland.	QFF's support for the amendment is noted.
Part 4 - *Amendments to the Animal Care and Protection Act 2001*				
	2. QFF	Part 4	QFF is supportive of the motion to punish those convicted of animal cruelty offences by the courts. QFF does not oppose the penalties imposed by the courts being raised to act as both a punishment and deterrent	QFF's support for the amendment is noted.
	4. Animal Liberation Queensland	Part 4	Animal Liberation Queensland (ALQ) welcomes the proposed increase to the maximum penalty for animal cruelty offences. It is recognised however that it is currently only in the rarest occasions that courts deliver the maximum penalty for animal cruelty offences	ALQ's support for the amendment is noted. DAFF also notes ALQ's concerns about the penalties imposed by the courts. It is recognised that whilst it is Government's prerogative to consider amending legislation to introduce new offences or increase penalties, ultimately the decision as to the level of penalties imposed on offenders for animal cruelty offences is a discretionary matter for the Courts.
Part 5 - Amendments to the Animal Management (Cats and Dogs) Act 2008				
	1. Logan City Council	Part 5, Division 3 Amendments about concurrent regulated dog declarations and destruction orders	The Council asserts that the proposed amendment that will allow a local government to issue a regulated dog notice and a destruction order as a concurrent process, will fail to address the excessive costs incurred by the Local Government. They suggest that a further amendment is required to prevent unnecessary cost to rate payers arising from lengthy reviews of decisions and actions made legally by local government, where an animal is held in a facility at the cost of the local government, for periods of several months to a year.	Although the amendments to streamline the decision making and appeals process for dog destructions included in the AFLA Bill will have significant benefits, they will not have substantive impacts on the rights and obligations of dog owners. In contrast, the further amendments to address the costs incurred by local governments suggested by Logan City Council will have significant impacts. For example, restricting the time available for conduct of a review would impact QCAT's operations and would also potentially breach the fundamental legislative principle (FLP) issue in section 4(3)(a) of the Legislative Standards Act 1992 - whether the legislation makes rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to

Cl.	Sub No. and Submitter	Section/[Issue]	Key Points	Departmental response
				appropriate review. The potential to incur a large debt payable to the relevant local government for keeping the dog while a destruction order is being reviewed may also, in practice, impact the review rights of the dog owner. The amendments to streamline the dog destruction process included in the AFLA Bill have the support of all major stakeholders. In contrast stakeholder support has not been tested for the amendments proposed by Logan City Council to further reduce the costs incurred by local governments. While the potential benefits to local government are not disputed, further consultation and policy analysis is appropriate to ensure the rights of dog owners and the impact on QCAT's operations are justified before further amendments are proposed. The proposed amendments may also trigger the requirement for development of and public consultation on a Regulatory Impact Statement. For this reason, DAFF does not believe they are suitable for inclusion in the AFLA Bill.
	1. Logan City Council	Part 5, Division 2 – Amendments about cat registration	The Logan City Council strongly opposes the removal of mandatory cat registration. They argue that removing this will lead to increased euthanasia rates for cats. They also propose introducing mandatory state-wide desexing of all cats. They also state that no consultation with larger councils like Logan or Brisbane, which means there is a perceived bias of support for the removal of mandatory registration.	<u>Cat registration</u> A significant proportion of euthanized cats are ownerless (i.e. feral cats) or semi-owned (i.e. cats that are fed by someone who does not take full responsibility for them). Neither cat registration nor micro-chipping reduces euthanasia rates of ownerless cats. It is also doubtful that mandating registration has any impact on semi-owned cats (those that have food put out for them, but otherwise nobody claims responsibility for). In any case, retention of mandatory micro-chipping will ensure that any impact on euthanasia rates from the removal of cat registration requirements will be absolutely minimal. The feral cat population and the rate of euthanasia of unwanted cats surrendered to shelters may be influenced by rate of desexing of cats. However, removing state-wide mandatory registration is unlikely to materially decrease desexing rates. Studies by the Australian Veterinary Association indicate that as of 2007 (before state-wide cat registration was introduced), around 90% of owned cats were already desexed. A Cat and Dog Ownership Survey in 2012 conducted by the Office of Economic and Statistical Research (OESR) found the likelihood of having a de-sexed cat did not differ between households with or without a council registered cat. DAFF would like to note however that local governments, such as Logan City Council, are able to make local laws about animal management and can choose to continue registration requirements in their local government area if they wish. Provisions have been included in the Bill to facilitate a smooth transition to

Cl.	Sub No. and Submitter	Section/[Issue]	Key Points	Departmental response
				mandatory registration under local laws where local governments elect to continue requiring registration. <u>Micro-chipping</u> Retaining state-wide mandatory micro-chipping will ensure that removing state-wide mandatory registration does not adversely affect reunification rates of owned cats. Micro-chipping has some advantages over registration in reuniting cats– Collars and registration tags are easily removed and lost. In contrast, microchips are impossible to lose because they are implanted under the skin. Further, most microchip registries also provide cat owners with free or low cost identification tags. Council registers only contain information about cats within the local government area and registers are generally accessible only during business hours. In contrast, information recorded against a cat's microchip is stored in national registries and is accessible 24 hours a day. Almost all veterinary surgeries have microchip scanners and will usually be more conveniently located than pounds or shelters. All pounds and shelters are required to ensure a cat is scanned within three days of entering the pound or shelter. The data recorded against a cat's microchip is substantively the same as the data recorded in a council's registration database. The Act requires the owner of a cat or dog to update the information kept in a registry for the microchip within seven days of any changes. However, given that there is no annual trigger to update microchip information data recorded against a microchip may not be as up to date as registration data which is updated each time registration is renewed. Communications about the changes would emphasise the importance of keeping data recorded against a cat's microchip up to date. The Australian Veterinary Association has indicated it will encourage vets to scan companion animals each time they are treated to ensure details were up to date. Some microchip registries are developing strategies of their own initiative to ensure that owners regularly review and update the information held by the registries. <u>Mandatory desexing</u> In its 2012 Cat and Dog Ownership Survey, OESR found that 94.4% of Queensland households with cats three months or older had at least one de-sexed cat. There had been no significant change in the proportion of households with a de-sexed cat

Cl.	Sub No. and Submitter	Section/[Issue]	Key Points	Departmental response
				between November 2008 (when OESR had conducted its previous survey) and March 2012. These findings are consistent with high levels of desexing of owned cats reported in 2007 studies by the Australian Veterinary Association. Given that desexing rates of owned cats are already high, it is questionable whether mandating desexing would further increase the desexing rate sufficient to justify the costs of enforcing the requirement and approving breeders as well as the costs imposed on those community members wishing to keep "whole" cats. A mandatory desexing requirement would also be difficult to enforce. Amending the Act to mandate state-wide desexing of cats is not currently being considered by Government. Local governments, such as Logan City Council are, however, able to make local laws about animal management and can mandate desexing, other than by approved breeders, in their local government area. <u>Consultation with local councils</u> Consultation with local governments about the proposed amendments was conducted primarily through the Local Government Association of Queensland (LGAQ). LGAQ supported the amendments. DAFF was made aware that some councils, most likely those larger councils in urban areas, were likely to wish to continue to require cat registration and appropriate transitional provisions were included to facilitate this occurring. Direct consultation was undertaken with officers from some smaller councils to confirm that many were unlikely to require cat registration in their local government area and that they generally supported the removal of the state-wide requirement. Mention of their support for the amendments was not intended to be indicative of all councils.
	1. Logan City Council	Part 5	Council asks for a comprehensive review of the AMCDA Act to include a number of further amendments: • The only enforcement tools available to Councils are Penalty Infringement Notices (PINs) and prosecution under the AMCDA. There are no direction orders or notice to comply tools • There is an inability to refuse or cancel/revoke a registration • There is an inability to issue a notice to require a person to register an animal • There needs to be a requirement to register an animal at the point of sale. This would ensure organisations such as pet shops, shelters and RSPCA etc registered the animals when	DAFF is considering a large number of further potential amendments to the Act and proposes to develop a legislative proposal for Government consideration after other higher priority legislative projects for the portfolio are completed. DAFF proposes that Logan City Council's suggested amendments to the Act and the issues raised by SEQRAMG would be considered in this process. There are also a large number of potential amendments for consideration to address issues raised in approximately 100 submissions received from a broad cross section of the community, including local governments, animal welfare groups, dog enthusiast groups, dog owners and the Australian Veterinary Association, in response to the document Management of dangerous and potentially dangerous dogs in Queensland released for public comment in 2012.

Cl.	Sub No. and Submitter	Section/[Issue]	Key Points	Departmental response
			they are sold to a new owner. (A more comprehensive list is available in Council's submission)	
	3. Dogs Queensland	Part 5	Dogs Queensland have suggested that the following amendment be made to the AMCDA Act; Subdivision 2 Requirements for authorised implanters 24 Age restriction for implanting PPID (1) An authorised implanter must not implant a PPID in a cat or dog that is less than 8 weeks old, unless— (a) the implanter has a reasonable excuse; or (b) the implanter is a veterinary surgeon who considers implanting the PPID is not likely to be a serious risk to the health of the cat or dog; or (c) there is a signed veterinary surgeon's certificate for the cat or dog stating that implanting the PPID when it is less than 8 weeks old is not likely to be a serious risk to the health of the cat or dog. (d) a puppy cannot be sold less than 8 weeks of age without assigned veterinary certificate which states that each individual puppy has been permanently micro-chipped and temporarily vaccinated. Maximum penalty—60 penalty units.	DQ has suggested amendment of section 24 to provide that a puppy cannot be sold less than 8 weeks of age without a signed veterinary certificate which states that each individual puppy has been permanently micro-chipped and temporarily vaccinated. However, DAFF considers this proposed amendment unnecessary and unjustified particularly as the legislation as it is currently drafted is effective in that it; • establishes different offences for suppliers and implanters (20 penalty units and 60 penalty units respectively); • provides for a supplier having a reasonable excuse or a defence for supplying the dog without a PID; and • provides for an implanter having a reasonable excuse for implanting a PPID in a dog that is less than 8 weeks of age. DAFF considers that the amendment to section 24 as proposed by DQ would change the current legislative intention as it would remove the flexibility of having a supplier or an implanter provide a reasonable excuse. Additionally the proposed amendment is inappropriate as the AMCDA does not currently make provision about vaccination of dogs.
	3. Dogs Queensland	Part 5	Dogs Queensland would also recommend that an offence should be created which would prohibit the sale of puppies less than 8 weeks of age. This could be done by creating a new provision under the General Offense section of the Act under the heading of (perhaps): 196A Prohibition on Selling a Puppy.	Please see preceding response.
	4. Animal Liberation Queensland	Part 5, Division 2 – Amendments about cat registration	ALQ has concerns around the proposed changes to the Animal Management (Cats and Dogs) Act 2008. Deferring the responsibility to councils for cat registration will mean that many councils may not continue cat registration. This will lead to an increase in unregistered cats which may contribute to an increase in the feral cat population and/or an increase in cat euthanasia rates. While ALQ recognises the shortcomings of current mandatory cat registration requirements, we would encourage the Queensland Government to take additional steps to lower euthanasia rates of cats and dogs in Queensland in its place.	Retaining state-wide mandatory micro-chipping will ensure that removing state-wide mandatory registration does not adversely affect reunification rates of owned cats. A significant proportion of euthanized cats are ownerless (i.e. feral cats) or semi-owned (i.e. cats that are fed by someone who does not take full responsibility for them). Neither cat registration nor micro-chipping reduces euthanasia rates of ownerless cats. It is doubtful that mandating registration has any impact on semi-owners, but if there was an impact, retaining mandatory micro-chipping would ensure it was preserved. The feral cat population and the rate of euthanasia of unwanted cats surrendered to shelters may be influenced by rate of desexing of cats. However, removing state-wide mandatory registration is unlikely to materially decrease desexing rates – studies by the Australian Veterinary Association indicate that as of 2007 (before state-wide cat registration was introduced), around 90% of owned cats were already desexed. A Cat and Dog Ownership Survey in 2012 conducted by the

Cl.	Sub No. and Submitter	Section/[Issue]	Key Points	Departmental response
				Office of Economic and Statistical Research (OESR) found the likelihood of having a de-sexed cat did not differ between households with or without a council registered cat. Removing mandatory cat registration will not benefit individual animals. It will, however, save cat owners in local government areas that chose not to mandate cat registration between $13 and $115 a year in avoided registration costs.
	4. Animal Liberation Queensland	Part 5, Division 3 Amendments about concurrent regulated dog declarations and destruction orders	We also have concerns around what the simultaneous dangerous dog/destruction orders will mean in practice. We would appreciate further information and justification regarding this proposed change.	By streamlining the review process, the amendments will reduce the length of time during which a seized dog is held by local government before all reviews are resolved. Reducing the period for which dogs are held will reduce the risk of adverse impacts on the welfare of a dog. Whilst the concurrent approach requires dog owners to respond to both decisions at the same time, their substantive appeal rights are not affected and it can be argued that the concurrent process benefits dog owners as it will alleviate some of the expense to them for preparing for a separate review of each decision. It will also benefit dog owners who are successful following QCAT review, as the overall length of time they are deprived of their dog will be reduced.
Part 6 Amendments to the *Forestry Act 1959*				
Part 7 Amendments to the *Land Protection (Pest and Stock Route Management) Act 2002*				
	2. QFF	Part 7	QFF supports the amendment that replaces the existing requirement for two separate State pest management strategies with the requirement for a single Queensland Weed and Pest Animal Strategy	QFF's support for the amendment is noted.
Part 8 Amendments to the Rural and Regional Adjustment Act 1994				
	2. QFF	Part 8	QFF previously provided a submission on the mandatory five-year review of the Act in 2010. QFF supported and still supports the broadening of QRAA's role and improvements in QRAA's governance arrangements. QFF believes the current structure requires more flexibility to deal with a wider range of programs. We similarly provided like advice for the 2009 PIPES Review which is a QRAA function. The submissions provided to both of these reviews are available directly from QFF or via website at www.qff.org.au	With regards to broadening the role of QRAA, QFF suggested in its initial submission to the review of the Act that QRAA could deliver services that do not involve schemes of financial assistance. QFF suggests that QRAA could have a role in supporting Centrelink concerning income support applications from farmers and in the management of Farm Management Systems and climate change preparedness programs. In other words, programs which are not financial assistance schemes but are programs that are useful to farmers. QRAA's involvement in these types of activities would be a significant departure from its area of expertise. QRAA was established to administer schemes of financial assistance to the rural and regional sector (section 3) so this suggestion would requirement a significant change to the Act.

Cl.	Sub No. and Submitter	Section/[Issue]	Key Points	Departmental response
				The review of the Act noted that the 'objectives of the Act (section 3) continue to be relevant' and accordingly a broadening of its role beyond the administration of financial assistance schemes was not supported. For these reasons, DAFF does not consider that further amendments regarding the role of QRAA are suitable for inclusion in the AFLA Bill.
Part 9 Amendments to the *Veterinary Surgeons Act 1936*				
	2. QFF	Part 9	QFF supports the amendment to underpin Queensland's biosecurity effort by ensuring that veterinary surgeons be contacted at any time about actual or potential biosecurity threats through participation in the National Recognition of Veterinary Registration (NRVR) scheme.	QFF's support for the amendment is noted.
	5. AVA	Part 9, clauses 83,92 & 93	<u>Summary of position</u> The AVA supports the amendments relating to the National Recognition of Veterinary Registration (i.e. clauses 83 (3); 84, 85,86,87,88, 89, 90, 91,) however it has reservations about the effectiveness of this legislation. The AVA strongly opposes the amendments relating to the provision of emergency contact details of the veterinarian (i.e. clauses 83 (1) and (2), 92, 93). The AVA queries the need for a definition of "eligible veterinary surgeon" over the previous "registered veterinary surgeon" as the definitions seem one and the same (Clauses 80, 81, 82).	<u>Summary of position</u> The Department acknowledges the AVA's support for the amendments relating to the National Recognition of Veterinary Registration (NRVR). The Department notes the AVA's position on the provisions in relation to the emergency contact details. <u>Previous consultation with the AVA</u> The Queensland Branch of the Australian Veterinary Association (AVAQ) was consulted by Biosecurity Queensland on two occasions, 28 July 2011 and 12 August 2011 about the proposed amendments. At the first meeting there was provisional support for the amendments. At the second meeting after a members meeting was held, concerns regarding the reasons for the provision of the emergency contact details and penalty provisions were raised. The policy basis for the amendments was provided at each meeting. As a result of the second meeting with the AVAQ, the provisions relating to the purpose for obtaining the out of hours contact details for veterinarians was narrowed to only allow Biosecurity Queensland to contact veterinary surgeons 'out of hours' to provide information during an emergency response. This was to address concerns by the AVAQ that private veterinarians may be 'called' out by Biosecurity Queensland on the weekend to respond to a biosecurity emergency. Therefore the proposed provisions are only for the giving of information to veterinary surgeons and not for asking veterinary surgeons to engage in any response. In a letter dated 23 November 2011 from the AVAQ to the Chief Veterinary Officer

Cl.	Sub No. and Submitter	Section/[Issue]	Key Points	Departmental response
				Dr Tony Thelander, the then President of the AVAQ suggested a change to the proposed legislation as a result of the 2011 floods. Dr Thelander suggested that an amendment be made to the legislation to include "natural disasters" as one of the criterion for contacting veterinary surgeons. The Department submits that the use of the term "eligible veterinary surgeon" was introduced by OQPC to identify veterinary surgeons whose name remains on the register. There is no definition for the term "registered veterinary surgeon" in the *Veterinary Surgeons Act 1936.*
			<u>National Recognition of Veterinary Registration</u> The AVA submits that joining the National Recognition of Veterinary Registration (NRVR) will likely lead to increase costs. Each state veterinary registration board will be required to review the disciplinary records of every other authority to ensure the veterinarian is not suited to practice in Queensland. In some States some disciplinary matters may not apply in Queensland and in Victoria where there is no practice restriction it may be problematic to apply the offense to a restricted act in Queensland. It would be the suggestion of the AVA (Queensland Division) that NRVR proceeds but with caution, possibly the acceptance of specialists in the first instance and proceed to general practitioners at a later date if the discipline process can be legally substantiated.	<u>National Recognition of Veterinary Registration</u> The amendments will lead to an approximately $20 000 shortfall in Queensland Veterinary Surgeons Board (VSB) revenue due to the category of secondary registration and limited registration becoming obsolete. There will be additional administrative costs associated with additional reporting processes to other jurisdictions. The Registrar does not believe these will be significant as reporting on matters against a veterinary surgeon is required under section 33A(1) and an extract of this report or the report itself can be provided to each jurisdiction under section 33A(3) and (4). In the 2012-2013 financial year, the Board held 9 formal hearings for discipline matters. As such, the burden of reporting the outcomes of disciplinary hearings to other jurisdictions is not significant. The current system where jurisdictions provide letters of good standing for applicants wishing to register in other states will continue. Currently states that have enacted NRVR are required to notify every interstate veterinary registration authority of determinations that are made at formal and informal hearings. While it is true that the Board may not be aware of who is practising in Queensland, employers are required to check that a registrant is registered or deemed to be registered on employing a veterinarian. Veterinarians who start their own practices are required to apply for premises approval. Employment agencies and drug companies also check the person's registration status. The development of the national registration database will enhance this process. The Department submits that under clause 87 of the Bill, the person's registration as a veterinary surgeon is subject to the same conditions, limitations or restrictions that apply to the person's registration in another State as a veterinary practitioner. Therefore there is no need to consider the nature of the conditions, limitation or

Cl.	Sub No. and Submitter	Section/[Issue]	Key Points	Departmental response
				restrictions in relation to Queensland registration.
			<u>Opposition of proposed changes to the provision of emergency contact details of veterinarians.</u> The AVA advises in its submission that it opposes the proposed changes around the provision of emergency contact details of veterinarians for the following reasons. 1. The legislation change is unnecessary The AVA submits that registered veterinarians are already contacted by emails by opting in to provide emergency contact details so that they can be issued disease alerts. In the Vet Register newsletter of July 2013, 89.5% of vets had provided their emergency contact details for this purpose. As there are several hundred interstate veterinarians and also many retired vets, it is likely that this is reaching the great majority of the practising veterinary surgeons in the state. In addition, the AVA alerts all of its members to disease reports and emergency situations. The Veterinary Surgeon's Board produces an electronic list of contacts who have given permission to be contacted for the department within minutes of being asked and has initiated a program for access after-hours but requires Biosecurity Qld to resource it as it is expressly for the Department's purposes. 2. The legislation will not have any significant impact on the control of animal disease, pets or workplace health and safety. The AVA notes that the reason given for providing the emergency contact details for veterinarians is for outbreaks of the Hendra virus. The AVA submits that in reality, Hendra virus has never been recorded in an outbreak form (where it has travelled quickly from one property to another through people, animals or wind)	<u>Opposition of proposed changes to the provision of emergency contact details of veterinarians.</u> <u>1. The legislation change is unnecessary</u> There are two elements to the amendments: a. to ensure that privacy laws do not prevent the VSB supplying contact details to Biosecurity Queensland; and b. to make it mandatory for veterinary surgeons to supply emergency contact details. The Department submits that the legislation is necessary as it provides certainty for Biosecurity Queensland that the contact details of veterinary surgeons will be provided when they are required and that they will not be refused access to the details based on privacy objections. That is, the disclosure will be authorised by law and therefore comply with information privacy legislation. As such, the amendment provides comfort to the VSB in that they need not be concerned about breaching privacy legislation by supplying these contact details to the Chief Executive of the Department. The Department acknowledges that there is already a majority of veterinarians who provide emergency contact details voluntarily. The legislation will ensure that this level of compliance is maintained. <u>2. The legislation will not have any significant impact on the control of animal disease, pests or workplace health and safety.</u> The Department submits that the proposed amendments are not intended to provide for the control of animal disease, pests or workplace health and safety. Rather, the purpose is to provide information about controlling, eradicating or preventing the spread of an exotic disease, a declared pest, or a disease. Seven people have contracted Hendra, four have died. Two fatalities were veterinary surgeons.

Cl.	Sub No. and Submitter	Section/[Issue]	Key Points	Departmental response
			unless on the one locality and then only a small proportion of horses are likely to catch it. The AVA advises that it is keen to be informed as are the 90% of veterinarians who have opted in to receive disease alerts but it is not a critical control factor in limiting the spread of the disease.	It does not matter whether the disease is of a type that can be characterised as an "outbreak". It is acknowledged that Biosecurity Queensland initially requested veterinarian contact details to disseminate information about Hendra virus. However this is not the only disease which Biosecurity Queensland would want to inform veterinary surgeons about. The legislation provides for the giving of information in relation to controlling, eradicating or preventing the spread of an exotic disease, a declared pest or a disease. The Department submits that the dissemination of accurate information about controlling, eradicating or preventing the spread of an exotic disease, a declared pest or a disease will assist in the control of animals disease and pests, and in the case of zoonoses, may assist in mitigating the risk of transmission to humans. More specifically, the dissemination of information in relation to workplace health and safety may be vital in saving the life of a veterinary surgeon. The symptoms of diseases such as Hendra may vary over time and a misdiagnosis may result in a fatality. Therefore the Department submits that it is essential that Biosecurity Queensland has access to contact details to ensure that veterinary surgeons are provided with contemporary information in relation to diseases, pests and work place health and safety.
			3. The disease alerts will not reach all veterinarians. The AVA advises that with the introduction of NRVR in Queensland, secondary registration will cease, and (several hundred) interstate veterinarians who practice in Queensland intermittently will be able to do so without the government knowing who or where they are. Consequently, this group will not be on the list of veterinarians to be sent an alert. If the purpose of an alert is to heighten veterinarians' awareness of a possible disease or pest in an emergency, there will be a significant group of veterinarians who will be working and not receiving the alert. Hence the legislation proposal is ineffective and won't achieve the purpose for which it is written.	<u>3. The disease alerts will not reach all veterinarians.</u> The Department recognises that some veterinary surgeons will not obtain the information. However, it understands that the vast majority of veterinary surgeons whose principal practice is in Queensland will obtain the necessary information.
			4. The broad brush of the reasons given to access the private information of veterinarians is far reaching and	<u>4. The broad brush of the reasons given to access the private information of veterinarians is far reaching and so general that it could be something quite trivial to allow many Departments to initiate a demand.</u>

Cl.	Sub No. and Submitter	Section/[Issue]	Key Points	Departmental response
			so general that it could be something quite trivial to allow many Departments to initiate a demand. The AVA submits that the legislation does not specify that it has to be an emergency for other departments to use the contact list. They advise it appears that the legislation is for the purposes of the day to day workings of other Departments. For example, workplace health and safety is hardly an emergency but is proactive in nature. The Veterinary Surgeon's Board already cooperates with other Departments and does publish new legislation from other Departments in its newsletters and other matters affecting veterinarians and has links on its websites. There is no reason for these Departments to have emergency access to emergency contact details. The AVA submits that if the government does want to legislate so that it has routine access to the registration data, why would it do so via the emergency contacts? It submits that there is no need for this because existing systems are effective in disseminating information.	The Department submits that this legislation change in relation to prescribed chief executives was initiated in response to the Queensland Ombudsman's *Hendra Virus Report: An investigation into agency responses to Hendra virus incidents between January 2006 and December 2009.* This provision is subject to the restriction that contact must only be made by a prescribed chief executive in order to give veterinary surgeons information about controlling, eradicating or preventing the spread of an exotic disease, a declared pest or a disease. Also the public sector unit must be prescribed under a regulation before the chief executive can request access to the information. It is yet to be determined which agencies will be prescribed to enable this access by their chief executive. Regardless of their identify, the purpose of the information will be limited to controlling, eradicating or preventing the spread of exotic disease, a declared pest or a disease.
			5. The resources of the Board, completely paid for by registered veterinarians (apart from overheads) will then be used for purposes other than what the Act specifies and may result in a requirement to raise the registration fee to accommodate these requests. The AVA submits that there is already an impost on the Veterinary Surgeons Board's (VSB) resources in that the Board has to enter new fields of data for emergency contacts and keeping them up to date. The VSB has done this willingly in order to satisfy the needs of the Department over and above their needs. However, it does so with the permission of its veterinarians so that they are aware and agree to the provision of their personal data for Biosecurity alerts. This is a requirement of the Privacy Act.	5.The resources of the Board, completely paid for by registered veterinarians (apart from overheads)will then be used for purposes other than what the Act specifies and may result in a requirement to raise the registration fee to accommodate these requests. The Board already collects contact information on the registration application form and the registration renewal form for the purpose of registration. The registration application form provides information advising the registrant's contact details is provided to DAFF for emergency disease and preparedness. Therefore there will be no further impost on the VSB's resources by the introduction of this legislation.
			6. The legislation breeches the fundamental legislative principle stated in the explanatory notes i.e. *Legislation*	6.The legislation breeches the fundamental legislative principle stated in the explanatory notes i.e. *Legislation should have sufficient regard to rights and*

Cl.	Sub No. and Submitter	Section/[Issue]	Key Points	Departmental response
			should have sufficient regard to rights and liberties of individuals – LSA section 4(2)(a) The AVA strongly disagrees with the statement in the explanatory notes that " the ability to effectively engage and alert veterinary surgeons and deal with biosecurity emergencies in a timely manner to protect agricultural industries and human health is considered to far outweigh and justify any potential offence of FLP's". The AVA advises that in addition to interstate registered veterinarians that are not required to comply with these provisions either when practising in Queensland under the NRVR provisions or in their State of domicile, many registered veterinarians in Queensland would not be affected by the desire to know "vital information of disease outbreaks" including those who maintain registration but are not active in the veterinary field at present which could include time out for family, retirement, other business interests or in roles where primary care of animals is not their core responsibility. The issue of a veterinarians' right to have holidays and time off, free from pressures of work is not addressed. A veterinarian overseas on leave would not be effective in controlling disease in Australia and should not be compelled to provide contact details to the VSB or CEO of DAFF for this purpose. Many of these registered veterinarians who are not currently actively working would have no value or use to the Chief Executive as detailed in the proposal and as such should be excluded or another way found to engage the veterinary community group that is actively engaged in this sector of veterinary science. In addition, the AVA is aware that some registrants request for their details to remain private due to issues such as domestic violence. 7. To the AVA's knowledge, no other profession in Queensland or indeed Australia is required by legislation to give private details of their after-hours contacts for purposes other than the registration of its professionals.	<u>*liberties of individuals – LSA section 4(2)(a)*</u> The Department supports the explanation provided in relation to the breach of the FLP. The Department submits that the legislation will not impact on a veterinary surgeons ability to take holidays or have leisure time. The intent of the provision is to provide information and is not intended for veterinary surgeons to be engaged in the response or be detracted from undertaking leisure activities. In relation to requests to keep details private, the Department submits that privacy laws prevent the Department from sharing the information it obtains with other parties. A similar situation applies for prescribed chief executives. The risk of anyone's information being supplied to a party that is not entitled to the information is very low. Delays in delineating and responding to an emergency animal disease can increase the risks to human health, loss of market access and production. On balance, the costs of not taking action to minimise a risk, such as a highly infectious zoonotic disease (an animal disease that affects humans), are more significant than the cost of taking early and definitive action such as engaging and alerting veterinary surgeons which subsequently proves to be unnecessary. <u>7. To the AVA's knowledge, no other profession in Queensland or indeed Australia is required by legislation to give private details of their after-hours contacts for purposes other than the registration of its professionals.</u> The Department submits that the occurrence of diseases such as Hendra virus and

Cl.	Sub No. and Submitter	Section/[Issue]	Key Points	Departmental response
			Some state veterinary boards may collect private contact information from veterinarians but to the AVA's knowledge, this is for the Board's purposes and not the wider government and there is no legislation compelling the Registrar to give out these private details to third parties. There is no other parallel in the other professions to the AVA's knowledge. The AVA submits that if the medical doctors do not require it, how can it be justified for veterinarians? 8. It increases red tape and is not consistent the current government's policy of removing unnecessary legislation. The AVA submits that the government has set targets of reducing registration significantly, possibly by up to a third. They therefore question why this legislation is being introduced. The AVA proposes that if there is sufficient value in accessing veterinarians who are actively working and wish to participate in the management of animal disease in the community (other than as a responsible practitioner), the Department and Veterinary Service Board (VSB) should consider a register of veterinarians who can elect specific disease or species interests and with whom the agency could develop relationships. To compel otherwise is not good governance nor cost effective and appears to be excessive use of red tape to provide what is a Government responsibility	lyssa virus create a unique situation in Queensland. These diseases have human health implications and a number of deaths have occurred as a result of people handling infected animals. Therefore it is considered appropriate that Queensland has the requirement for veterinary surgeons to provide emergency contact details. 8. It increases red tape and is not consistent the current government's policy of removing unnecessary legislation. The Department is cognisant of Government's red tape reduction targets and has implemented a range of programs to reduce red tape, including through a current review of the Veterinary Surgeons Act. In this instance, the Department submits that with almost 90% of veterinary surgeons voluntarily supplying contact details on the existing form, the proposed mandatory provisions would only require the residual 10% to add a minor additional entry on a short form. This would not result in any material increase in the regulatory burden on veterinary surgeons.
	6. VSB	Part 9, clauses 79-91 Clause 92	National Recognition of Veterinary Registration The VSB supports the clauses relating to the National Recognition of Veterinary Registration. Proposed changes to the provision of emergency contact details of veterinarians. The VSB submitted it continues to have concerns about this provision as it incorporates a penalty provision. The VSB stated	Summary of position The Department acknowledges the VSB's support for the amendments relating to the National Recognition of Veterinary Registration (NRVR). Proposed changes to the provision of emergency contact details of veterinarians. The Department acknowledges the current significant voluntary compliance is an excellent interim solution. However despite the current high rate of voluntary compliance, the Department submits that the proposed legislation is still necessary.

Cl.	Sub No. and Submitter	Section/[Issue]	Key Points	Departmental response
			that this could result in a diversion of statutory fees for purposes other than those that accord with the purposes of the Act. The VSB submitted 89.5 per cent of veterinary surgeons that are registered provide an email address and 75 per cent provide a mobile number. The VSB stated it provides Biosecurity Queensland with theses details after each board meeting. The purpose of this is to provide Biosecurity Queensland with a current list of veterinary surgeons. The purpose of this is to provide Biosecurity Queensland with a current list of emergency contact details of veterinary surgeons in the event of an emergency disease outbreak. The VSB highlighted the issue of veterinary surgeons who are deemed to be registered under the NRVR not being in a position to provide emergency contact details. As a result they will not be contactable by Biosecurity Queensland. The VSB requested the Department apply enhancements to the VSB register to allow access by Biosecurity Queensland. This would mean that Biosecurity Queensland would have access to the required information without the need to go directly to the Registrar. The VSB submitted that it would be incumbent upon the Department to ensure the information is managed appropriately when it is shared with other Departments.	The concern remains that if the legislation is not put in place, voluntary compliance may decline because there is a reduced incentive to maintain this rate of compliance. Voluntary compliance may be high at this point because of the desire by the VSB to avoid the legislative provision being implemented. If the legislative provision does not proceed and voluntary compliance declines, the Department will be back in the position of not having access to emergency contact details. The Department submits that the legislation is still required to: • put privacy issues about the release of such information beyond doubt; • implement recommendations arising from the Queensland Ombudsman Hendra virus report; and • provide certainty that compliance will remain high. The Department acknowledges that there may be a small number of veterinary surgeons who will work in Queensland under the deeming provisions and not provide emergency contact details. The Department does not consider this will have a significant impact. The Department acknowledges that access to the VSB register by Biosecurity Queensland has been previously discussed and as yet has not progressed. However, the Department submits this is a separate issue to the compulsory provision of emergency contact details of veterinary surgeons. The access to the VSB data base by Biosecurity Queensland only alleviates the need for the Registrar of the VSB to provide the information. It does not relate to how the information is collected.
		Clause 93		