



# **Examination of Auditor-General Report No. 6: 2021-22 *Regulating animal welfare services***

**Report No. 42, 57th Parliament**

**State Development and Regional Industries Committee**

**May 2023**

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

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<b>Deputy Chair</b>	Mr Jim McDonald MP, Member for Lockyer
<b>Members</b>	Mr Michael Hart MP, Member for Burleigh
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### **Acknowledgements**

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

## Contents

<b>Abbreviations</b>	<b>ii</b>
<b>Chair’s foreword</b>	<b>iii</b>
<b>1 Introduction</b>	<b>1</b>
1.1 Role of the committee	1
1.2 Role of the Auditor-General	1
1.3 Referral of the Auditor-General Report	1
1.4 Scope of the Auditor-General reports	1
1.5 Examination process	2
1.6 Regulating animal safety in Queensland	2
1.7 Audit conclusions	3
1.8 Audit recommendations and implementation progress	4
1.8.1 Recommendation 1 - completed	4
1.8.2 Recommendation 2 - in progress	5
1.8.3 Recommendation 3 - completed	6
1.8.4 Recommendation 4 - in progress	6
1.8.5 Recommendation 5 - completed	6
<b>2 Committee comment</b>	<b>7</b>
<b>Appendix A – Officials at public briefing on 20 June 2022</b>	<b>8</b>
<b>Statement of Reservation</b>	<b>9</b>

## Abbreviations

Act	<i>Animal Care and Protection Act 2001</i>
Amendment Act	<i>Animal Care and Protection Amendment Act 2022</i>
Amendment Bill	Animal Care and Protection Amendment Bill 2022
Auditor-General Report	Auditor-General Report No. 6: 2021-22 – <i>Regulating animal welfare services</i>
committee	State Development and Regional Industries Committee
department	Department of Agriculture and Fisheries
LSA	<i>Legislative Standards Act 1992</i>
QAO	Queensland Audit Office

## Chair's foreword

This report presents a summary of the State Development and Regional Industries Committee's examination of Auditor-General Report No. 6: 2021-22 - *Regulating animal welfare services*.

The committee's task was to consider the Auditor-General's findings in relation to:

- how animal welfare is regulated in Queensland
- how the performance of regulators could be improved across the State

On behalf of the committee, I thank the Queensland Audit Office and the Department for Agriculture and Fisheries for their assistance with the committee's examination.

I commend this report to the House.



Chris Whiting MP

Chair



## 1 Introduction

### 1.1 Role of the committee

The State Development and Regional Industries Committee (committee) is a portfolio committee of the Legislative Assembly which commenced on 26 November 2020 under the *Parliament of Queensland Act 2001* and the Standing Rules and Orders of the Legislative Assembly.<sup>1</sup>

The committee's primary areas of responsibility include:

- State Development, Infrastructure, Local Government and Planning
- Agricultural Industry Development, Fisheries and Rural Communities
- Regional Development, Manufacturing and Water.

The committee has responsibility within its portfolio areas for the assessment of the integrity, economy, efficiency and effectiveness of government financial management by:

- examining government financial documents
- considering the annual and other reports of the Auditor-General.<sup>2</sup>

### 1.2 Role of the Auditor-General

The role of the Auditor-General is to provide Parliament with independent assurance of public sector accountability and performance. This is achieved through reporting to Parliament on the results of its financial and performance audits.

A financial audit assesses whether the information contained in the financial statements of public sector entities is accurate, can be relied upon and is prepared in accordance with Australian Accounting Standards and relevant legislative requirements.<sup>3</sup>

A performance audit evaluates whether an agency or government program is achieving its objectives effectively, economically and efficiently, and is compliant with relevant legislation. It does not consider the merits of government policy. Rather, it focuses on how that policy is implemented.<sup>4</sup>

The Queensland Audit Office's (QAO) Report No. 6: 2021-22, titled '*Regulating animal welfare services*' (Auditor-General Report) was prepared under Part 3 Division 3 of the *Auditor-General Act 2009* and was tabled in the Legislative Assembly in accordance with section 67 of that Act on 30 November 2021. This report presents the results of the QAO's performance audit.

### 1.3 Referral of the Auditor-General Report

Standing Order 194B provides the Committee of the Legislative Assembly shall as soon as practicable after a report of the Auditor-General is tabled in the Assembly, refer that report to the relevant portfolio committee for consideration. The Auditor-General Report was referred to the committee on 2 December 2021. A portfolio committee may deal with this type of referral by considering and reporting on the matter and making recommendations about it to the Legislative Assembly.

### 1.4 Scope of the Auditor-General reports

In the Auditor-General Report, the QAO examined the way in which the Department of Agriculture and Fisheries (department) and RSCPA Queensland deliver animal welfare services under the *Animal Care and Protection Act 2001* (Act). It assessed the effectiveness of the department's engagement with

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<sup>1</sup> *Parliament of Queensland Act 2001*, s 88 and Standing Order 194.

<sup>2</sup> *Parliament of Queensland Act 2001*, s 94(1)(a).

<sup>3</sup> QAO Practice Statement – Financial statement audit, p 1.

<sup>4</sup> QAO Factsheet - About us, p 2.

RSCPA Queensland. It did not audit each party's processes for delivering animal welfare services nor RSCPA Queensland's practices or governance arrangements.

### **1.5 Examination process**

The committee received a public briefing from the QAO on 20 June 2022. See Appendix A for a list of witnesses. The committee also wrote to the department seeking further information on various matters.

A copy of the transcript and departmental correspondence can be accessed on the committee's webpage: <https://www.parliament.qld.gov.au/Work-of-Committees/Committees/Committee-Details?cid=172&id=4140>

### **1.6 Regulating animal safety in Queensland**

At the time of the Auditor-General Report, the department and RSCPA Queensland were delivering animal welfare services under the *Animal Care and Protection Act 2001*. The Act places a legal duty of care on people in charge of animals to meet those animals' needs in an appropriate way. It also gives RSCPA Queensland authority and power to perform animal welfare investigation on behalf of the State.

The department engages RSCPA Queensland to provide animal welfare services predominantly in the coastal communities while the rest of the State is overseen directly by the department via its agency Biosecurity Queensland.<sup>5</sup> This dual public-private system is common across Australia.<sup>6</sup> The department provides RSCPA Queensland with \$500,000 per year towards the cost of inspectors and vehicles.<sup>7</sup> The cost of RSCPA Queensland's enforcement activities for the year ending 30 June 2020 was approximately \$4.6 million.

Inspectors from Biosecurity Queensland and RSCPA Queensland investigate complaints about animal care or cruelty and ensure compliance with the Act. At the time of the Auditor-General Report, the RSCPA Queensland, through its inspectors, had considerable autonomy and authority to conduct animal welfare investigations and prosecutions.

In Queensland the relationship between the department and RSCPA Queensland is managed via the Act, regulation, procedures, as well as an activity agreement between RSCPA Queensland and the department. The activity agreement committed RSCPA Queensland to, among other things, align its procedures for prosecution with the department's most recent current prosecution policy.<sup>8</sup> This was designed to ensure that Queenslanders are subject to the same regulatory environment wherever they live in the State.<sup>9</sup> The agreement also required RSCPA Queensland to separate its enforcement activities from its fundraising and other business activities. This is important because a potential conflict of interest could arise in situations where, for example, RSCPA Queensland is asked to investigate its own pet shops or undertakes enforcement activities in a manner designed to advance its advocacy agenda.

In addition to its focus on animal welfare, the Auditor-General Report also provided insights that all regulators could use to improve their practices.

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<sup>5</sup> Mr Brendan Worrall, Auditor-General, public briefing transcript, Brisbane, 20 June 2022, p 2.

<sup>6</sup> QAO, Questions taken on notice and response, 24 June 2022, pp 1-4.

<sup>7</sup> QAO, Report 6: 2021-22 Regulating animal services, p 4.

<sup>8</sup> QAO, Report 6: 2021-22 Regulating animal services, p 12.

<sup>9</sup> Mr Brendan Worrall, Auditor-General, public briefing transcript, Brisbane, 20 June 2022, p 2.



## 1.7 Audit conclusions

In the Auditor-General Report, the QAO determined the department had neither been sufficiently proactive nor effective in overseeing RSPCA Queensland and supporting it in exercising its powers under the Act.<sup>10</sup>

The audit focussed on 4 themes: the appointment and work of inspectors; investigations and prosecutions; conflicts of interests; and monitoring and managing performance. In summary, the Auditor-General Report found:

- There was limited oversight of RSPCA Queensland inspectors who were appointed by the department without conditions for an indefinite term.<sup>11</sup> The department did not have a clear framework for managing inspectors' training and performance or a scheme for managing complaints and conflicts of interests.
- The department did not have effective mechanisms to ensure RSPCA Queensland followed the same procedures for prosecutions and investigations as Biosecurity Queensland. Specifically, the department had no oversight of RSPCA Queensland's decision to prosecute people for alleged breaches of the Act.<sup>12</sup>
- RSPCA Queensland's costs for seizing, caring, and destroying animals can form a major part of some settlements.<sup>13</sup> The department had not ensured that there was a transparent process for approving and amending a schedule of recovery costs.
- While RSPCA Queensland had processes for managing conflicts of interest, the Act did not give the department sufficient oversight of these processes.<sup>14</sup>
- To effectively administer the Act, the department needed to ensure it had regular performance reporting from RSPCA Queensland and processes to evaluate its performance. The department also did not have a financial model to determine what funding RSPCA Queensland requires.<sup>15</sup>
- Prior to the completion of the Auditor-General Report, the department had been addressing some of the limitations identified by the QAO and had partnered with RSPCA Queensland to improve transparency and accountability.<sup>16</sup>

In addition to the QAO's focus on the relationship between the department and RSPCA Queensland, the Auditor-General Report provided a broader set of conclusions on how to improve the performance of regulators across the State.<sup>17</sup> These included that regulators should:

- plan to be intelligence-led, understand their function and objective, use data efficiently, manage risks proactively, and develop a compliance monitoring and enforcement plan
- implement compliance plans and respond to complaints
- report publicly on indicators of their performance
- learn through continuous improvement.

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<sup>10</sup> QAO, Report 6: 2021-22 Regulating animal services, p 12.

<sup>11</sup> QAO, Report 6: 2021-22 Regulating animal services, p 3.

<sup>12</sup> QAO, Report 6: 2021-22 Regulating animal services, p 4.

<sup>13</sup> QAO, Report 6: 2021-22 Regulating animal services, p 4.

<sup>14</sup> QAO, Report 6: 2021-22 Regulating animal services, p 4.

<sup>15</sup> QAO, Report 6: 2021-22 Regulating animal services, p 4.

<sup>16</sup> QAO, Report 6: 2021-22 Regulating animal services, p 7.

<sup>17</sup> QAO, Report 6: 2021-22 Regulating animal services, Appendix C.

## 1.8 Audit recommendations and implementation progress

The QAO made 5 recommendations to the department; 3 have been completed and 2 are in progress.

Several of the recommendations from the Auditor-General Report were addressed in the *Animal Care Protection Amendment Act 2022* (Amendment Act). The committee tabled its Report No. 23, 57th Parliament – Animal Care and Protection Amendment Bill 2022 (Amendment Bill) on 1 July 2022. A copy of the report and the government’s response can be accessed on the committee’s webpage: <https://www.parliament.qld.gov.au/Work-of-Committees/Committees/Committee-Details?cid=172&id=4163>

The committee found that the amendments strengthened the legislative framework and that the strengthening of the department’s oversight of RSPCA Queensland were much needed and appropriate.<sup>18</sup> The committee recommended that the department continue to implement QAO recommendations in full, and actively monitor and assess the performance of RSPCA Queensland in meeting its obligations under any Activity Agreement for delivering inspectorate services for the State.<sup>19</sup> The government tabled its interim response on 3 September 2022.<sup>20</sup> It tabled its final response on 30 November 2022 supporting the committee’s recommendations.<sup>21</sup>

The Amendment Bill was passed on 2 December 2022.

### 1.8.1 Recommendation 1 - completed

1. The QAO recommends that the department amends the *Animal Care and Protection Act 2001* to:
  - clarify inspectors accreditation and accountabilities
  - include requirements for managing conflicts of interest
  - have oversight of inspectors recommendations for prosecution
  - have access to all information inspectors collect as part of their investigation
  - require the department to approve a publicly available fee schedule of reasonable cost recovery.

Recommendation 1 was completed in December 2022 following the passage of the Amendment Act.

The Amendment Act clarifies the accountabilities and accreditation of inspectors by including provisions which enable the department’s Director-General to cancel or suspend an appointment if it is believed that the inspector is no longer suitable for appointment, or a condition of appointment has not been met.<sup>22</sup> The Amendment Act also allows the Director-General to require an inspector to complete training within a certain timeframe.<sup>23</sup> To manage conflicts of interest, the Amendment Act requires an inspector to give notice to the Director-General of all interests that the inspector has or acquires, and that conflict, or could conflict, with the proper performance of their functions.<sup>24</sup>

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<sup>18</sup> Report No. 23, 57th Parliament – Animal Care and Protection Bill 2022, p 45.

<sup>19</sup> Report No. 23, 57th Parliament – Animal Care and Protection Bill 2022, p. 45.

<sup>20</sup> Interim Government Response – Report No. 23, 57<sup>th</sup> Parliament – Animal Care and Protection Amendment Bill 2022

<sup>21</sup> Report No. 23, 57<sup>th</sup> Parliament – Animal Care and Protection Amendment Bill 2022, Government response.

<sup>22</sup> *Animal Care and Protection Amendment Act 2022*, cl 24.

<sup>23</sup> *Animal Care and Protection Amendment Act 2022*, cl 26.

<sup>24</sup> *Animal Care and Protection Amendment Act 2022*, cl 26.

In regards to prosecutions, the Amendment Act provides that a person must seek approval from the department's Chief Executive to progress a prosecution.<sup>25</sup> This will allow the Chief Executive oversight of recommendations from inspectors for prosecutions. The Amendment Act also enables the Director-General to request a copy or access to all documents and information relating to the investigation of an alleged animal welfare offence conducted by an RSPCA Queensland inspector in relation to proceedings to be commenced under the Act.<sup>26</sup> RSPCA Queensland must provide the information within 14 days of being asked.

While the Amendment Act does not oblige RSCPA Queensland to publish a fee schedule of reasonable costs for treating and keeping animals, the organisation has voluntarily done so. The QAO agreed that fees associated with external parties did not need to be published because of commercial in confidence issues.<sup>27</sup>

### 1.8.2 Recommendation 2 - in progress

2. To clarify and strengthen the department's role, the QAO recommends the department:

- establish and oversee inspector's minimum performance and re-accreditation standards
- maintain a register of current inspectors and control their identity cards
- participate in RSCPA Queensland decisions to prosecute
- regularly reviews RSPCA Queensland's investigations and provide feedback
- monitor complaints against RSPCA Queensland
- oversee how RSCPA Queensland manage conflicts of interest
- establish minimum standards of care for the animals that RSCPA Queensland regulate.

While most of the recommendation has been addressed, elements remain in progress.

The Amendment Act provides the department with the power to suspend or cancel an inspector's appointment if they fail to meet certain accreditation and performance standards. Inspectors are now appointed on a 5-year basis and must undertake an annual assessment to demonstrate their qualifications and experience to administer the Act. The department has also instituted new mandatory requirements for anyone seeking to become an inspector and has developed an extensive learning and development program.

The task of registering an inspector and managing their identity card has been allocated to an officer within Biosecurity Queensland.<sup>28</sup>

Following a report by Chief Justice Mr Kerry O'Brien AM from 2023, the department has assumed full responsibility for the conduct of all prosecutions under the Act and now manages prosecutions through its in-house legal service.<sup>29</sup> This gives the department full control and oversight of prosecutions. The process will be reviewed after 12 months. The department is providing feedback to RSCPA Queensland on the process of investigations with an emphasis on early decision making.<sup>30</sup>

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<sup>25</sup> *Animal Care and Protection Amendment Act 2022*, cl 33.

<sup>26</sup> *Animal Care and Protection Amendment Act 2022*, cl 35.

<sup>27</sup> Department of Agriculture and Fisheries, correspondence, 19 April 2023, attachment, p 2.

<sup>28</sup> Department of Agriculture and Fisheries, correspondence, 19 April 2023, attachment, p 5.

<sup>29</sup> Department of Agriculture and Fisheries, correspondence, 19 April 2023, attachment, p 9.

<sup>30</sup> Department of Agriculture and Fisheries, correspondence, 19 April 2023, attachment, p 9.

The department and RSCPA Queensland have developed new complaints procedures modelled on the department's own procedures and the Australian/New Zealand guidelines for complaint management in organisations. RSCPA Queensland now report complaints about inspectors to the department.<sup>31</sup>

As a condition of employment, inspectors are now required to notify the Director-General of an interest that conflicts or may conflict with their function as an inspector. The department is also drawing up a new activity agreement with RSCPA Queensland and reports that this will contain provisions for reporting conflicts of interests.<sup>32</sup> The new agreement is expected to be in place by 30 June 2023.<sup>33</sup>

The department is in the process of establishing minimum standards for the welfare of the types of animal RSCPA Queensland regulates. The department is committed to completing this work by the end of 2025.<sup>34</sup>

### **1.8.3 Recommendation 3 - completed**

3. To better manage performance, QAO recommends the department:

- assign responsibility and accountability for overseeing engagement with RSCPA Queensland to a person with appropriate authority.

This recommendation was completed in Q3 2021 with the appointment of an acting Director, Animal Welfare Program and acting Manager, Inspectorate.<sup>35</sup>

### **1.8.4 Recommendation 4 - in progress**

4. To better manage performance, QAO recommends the department partners with RSCPA Queensland to:

- develop measures to judge the effectiveness of enforcement measures
- use financial reports to ensure accountability for the funds provided to RSCPA Queensland.

This recommendation is in progress. The department has implemented and is using effectiveness measures to assess enforcement measures against intended outcomes.<sup>36</sup> The new activity agreement, expected to be in place by 30 June 2023, is due to contain new financial reporting mechanisms.

### **1.8.5 Recommendation 5 - completed**

5. The QAO recommends:

- public sector regulators and oversight bodies self-assess against the better-practices for regulators identified by the QAO and, where necessary, implement changes.

The recommendation is complete. Within the scope of regulating animal welfare, the changes made by the department both prior to and in response to the Auditor-General Report have fulfilled the QAO's wider recommendations to improve performance.

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<sup>31</sup> Department of Agriculture and Fisheries, correspondence, 19 April 2023, attachment, p 9.

<sup>32</sup> Department of Agriculture and Fisheries, correspondence, 19 April 2023, attachment, p 10.

<sup>33</sup> Department of Agriculture and Fisheries, correspondence, 19 April 2023, attachment, p 3.

<sup>34</sup> Department of Agriculture and Fisheries, correspondence, 19 April 2023, attachment, p 4.

<sup>35</sup> Department of Agriculture and Fisheries, correspondence, 19 April 2023, attachment, p 25.

<sup>36</sup> Department of Agriculture and Fisheries, correspondence, 19 April 2023, attachment, p 4.

## 2 Committee comment

The Auditor-General found that the Department of Agriculture and Fisheries needed to improve its approach to overseeing RSPCA Queensland and better support the organisation to exercise its powers under the Act.<sup>37</sup> This conclusion also reflected the concerns which we raised about the operation of RSPCA Queensland during our consideration of the Animal Care and Protection Amendment Bill 2022.

The department took a proactive approach to the work of the Auditor-General and began addressing shortcomings prior to the publication of the Auditor-General Report. A year and a half on, the department has either addressed the recommendations made by the Auditor-General or is in the process of doing so.

The new legislative framework for regulating animal welfare enacted by the *Animal Care and Protection Amendment Act 2022* was a major step forward in ensuring that Queenslanders, wherever they are in the State, are able to rely on a similarly high quality approach to securing animal welfare.

The changes made by the department to its internal processes – notably the enhanced inspector accreditation procedures and the decision to take responsibility for all prosecutions under the Act – build on these improvements. However, we still encourage the department to formally establish a requirement for RSPCA Queensland to publish its fee schedule for treating and keeping animals. Furthermore, we also encourage the department to apply a similar or applicable level of transparency to any further activity agreements with RSPCA Queensland.

In conclusion, we commend the department for its progress in addressing the recommendations of the Auditor-General's Report and encourage the department to continually monitor and improve the administration and oversight of animal welfare services provided by external parties.

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<sup>37</sup> QAO, Report 6: 2021-22 Regulating animal services, p 12.

## **Appendix A – Officials at public briefing on 20 June 2022**

### **Queensland Audit Office**

- Mr Brendan Worrall, Auditor-General
- Mr P Brahman, Assistant Auditor-General, Client Services
- Mr Darren Brown, Senior Director
- Mr Sri Narasimhan, Senior Director

## **Statement of Reservation**

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## Robbie Katter MP Member for Traeger

REF: RK5196 - BP

29 May 2023

Mr Chris Whiting MP  
Chair, State Development and Regional Industries Committee  
Via email: [SDRIC@parliament.qld.gov.au](mailto:SDRIC@parliament.qld.gov.au)

Dear Chair,

**RE: Statement of Reservation – Regulating Animal Welfare Services**

I write to provide a Statement of Reservation to the abovementioned report.

We at the Katter's Australian Party object to the recommendations in QAO Report 6: 2021-2022 Regulating animal welfare services insofar as they further endorse the legitimacy of RSPCA as watchdog over animal welfare issues.

The KAP disagrees with allowing the RSPCA to have this capacity on numerous levels.

Firstly, the RSPCA has had numerous reports of improper behaviour in the way in which they conduct inspections and confiscations of animals. There is nothing noted in the proposed new governing apparatus for checks and balances that provides us any reassurance that this will improve going forward.

The second most significant point is the conflict of interest that the organisation has in its activities as a watchdog, procuring animals that are often then sold, potentially at a profit in competition with some of the businesses that they police.

Thirdly, an organisation that has positioned itself heavily as a political activist for animal welfare brings with it certain prejudices. This is incompatible with its roles and responsibilities as an independent watch dog for animal welfare, particularly in some industries that would require some objectivity in their assessment such as horse sports or rodeo events. How could any participants in these activities ever rely on the objectivity of the organisation policing them when they are heavy activists against them?

The KAP have consistently stated that local animal welfare groups like Paws, and Hoofs and Claws in Mount Isa have a much stronger record in their respective local communities than the RSPCA.

These groups should be considered as conduits to improving animal welfare in our State and I would argue that the Queensland Government should make efforts to empower, and potentially fund, these groups where appropriate.

The fact that this report further endorses the oversight and policing of animal welfare by the RSPCA is not something that the KAP can support.

Yours sincerely,





**Robbie Katter**  
Member for Traeger