

This is an uncorrected proof of evidence taken before the committee and it is made available under the condition it is recognised as such..

Proof



## ***AGRICULTURE, RESOURCES AND ENVIRONMENT COMMITTEE***

Proof

### **Members present:**

Mr IP Rickuss (Chair)  
Mr JN Costigan MP  
Mr SV Cox MP  
Mr JM Krause MP  
Ms MA Maddern MP  
Ms J Trad MP

### **Staff present:**

Mr R Hansen (Research Director)  
Ms A Jarro (Principal Research Officer)

## **PUBLIC ROUNDTABLE BRIEFING—ANIMAL CARE AND PROTECTION AND OTHER LEGISLATION AMENDMENT BILL**

### **TRANSCRIPT OF PROCEEDINGS**

**WEDNESDAY, 27 JUNE 2012**

**Brisbane**

## ATTENDEES

ABEDNEGO, Cr John, Torres Shire Council

AHMAT, Mr Richard, Chair, Cape York Land Council

ANDERSON, Uncle Robert (Bob), Quandamooka Yoolooburrabee People

BUCHANAN, Ms Annabel, Chief Inspector-Prosecutions, RSPCA

BURNS, Mr Darren, Joint Management Coordinator, Quandamooka Yoolooburrabee Aboriginal Corporation (QYAC)

CLARKE, Ms Marguerite, Manager, Policy, Strategic Policy, Biosecurity Queensland

FOURMILE, Mr Seith, Delegate, Gimuy Walubarra Yidinji People

GEORGE, Miss Melissa-Leigh, Chair, Indigenous Reef Advisory Committee

JOHNSTONE, Mr Craig, Media Executive, Local Government Association for Queensland

JONES, Mr Mark, Member, Quandamooka Yoolooburrabee Aboriginal Corporation (QYAC)

KRIS, Mr John (Toshie), Chairperson, Torres Strait Regional Authority

NONA, Mr Horace, Traditional Owners, Cape York Land Council (CYLC)/Torres Strait Regional Authority (TSR)

PATERSON, Dr Mandy, Scientific Research Officer, RSPCA

PIPER, Mr Terry, Chief Operating Officer, Balkanu Cape York Development Corporation

THOMPSON, Dr Jim, Chief Biosecurity Officer, Department of Agriculture, Fisheries and Forestry

WALKER, Mr Aaron, Principal Policy Officer, Strategic Policy, Biosecurity Queensland

YBARLUCEA, Ms Carmel, Acting Executive Director, Indigenous Policy and Performance, Aboriginal and Torres Strait Islander Affairs

YOUNG, Mr Daniel, Chief Inspector Operations, RSPCA

## WEDNESDAY, 27 JUNE 2012

---

### Committee met at 1.00 pm

**CHAIR:** Welcome, ladies and gentlemen. I declare this meeting of the Agriculture, Resources and Environment Committee open. I want to acknowledge the traditional owners of the land on which we meet in this place today. I am Ian Rickuss, the chairman of the committee. Also present is Jackie Trad, the member for South Brisbane. We have Jon Krause, Anne Maddern, Jason Costigan and Sam Cox on the phone. We are meeting as a subcommittee of the committee to specifically hear from you today. We apologise for members of the committee not being present, but this meeting was called at pretty short notice. Please note that the meeting is being broadcast live via the parliament of Queensland's website. The meeting is also being transcribed by Hansard.

We have called this meeting to hear from people representing communities that will be directly affected by the Animal Care and Protection and Other Legislation Amendment Bill 2012. The bill was introduced into parliament last Tuesday by the Hon. John McVeigh, the Minister for Agriculture, Fisheries and Forestry. The bill will clearly impact on Aboriginal and Torres Strait Islander people who hunt dugong and turtle and other animals as part of their traditions and customs. The committee has been given until Monday, 2 July to examine the bill and report back to parliament. Because of the short time frame given to examine the bill, we have not attempted to hold a public submission process. Instead, we have invited key groups and individuals to speak at this meeting.

**Mrs MADDERN:** Mr Chairman, I inform everyone that, unfortunately, I can only stay for a short while.

**CHAIR:** That is okay, Anne. As I said, we have Jackie Trad from the committee in the room. We also have with us Rob Hansen and Ali Jarro from the committee secretariat. I will call on the department to give us a short briefing. I invite officers of the Department of Agriculture, Fisheries and Forestry to explain the bill.

**Dr Thompson:** Thank you, Mr Chairman, for giving us the opportunity to explain the bill. I want to begin by briefly explaining why this bill has been developed and then I will ask my colleague Marguerite Clarke to go through the bill in a little bit more detail. The Minister for Agriculture, Fisheries and Forestry, the Minister for Environment and Heritage Protection and the Minister for Aboriginal and Torres Strait Islander and Multicultural Affairs are collaborating on implementation of the government's policies on dugong and turtles. I welcome the representatives from the Department of Aboriginal and Torres Strait Islander and Multicultural Affairs who are here with us today, Carmel and Peter.

Before the election the current government announced a policy protecting Queensland's precious wildlife—dugong and turtles—that committed them to amend the Animal Care and Protection Act to bring Queensland in line with other states, removing exemptions for traditional owners. They are the words out of the election policy. The policy was explicit that the government would remove the current exemption for traditional hunters from the law that makes it illegal for anyone to wound, mutilate, torture or unnecessarily prolong the death of an animal, enforceable with penalties of up to two years in jail or a \$100,000 fine. In its first 100-day action plan, the government committed to implementing this policy during its first 100 days of government. The Minister for Agriculture, Fisheries and Forestry introduced the Animal Care and Protection and Other Legislation Amendment Bill 2012 on 19 June to meet that commitment. The bill will repeal section 8 of the Animal Care and Protection Act 2001 which currently exempts Aboriginal or Torres Strait Islander people who deal with animals in accordance with Aboriginal tradition or Islander custom from the animal welfare obligations under the Animal Care and Protection Act. This will mean that animal welfare obligations apply to acts done or omissions made by any Aboriginal person under Aboriginal tradition or an Islander under Island custom.

The repeal of section 8 will bring Queensland's animal welfare legislation in line with other states. All other states prohibit animal cruelty, although the way the legislation is worded in each state is slightly different. No other state exempts Indigenous people from the prohibition on animal cruelty. The bill will also amend some other Queensland laws that currently allow Aboriginal or Torres Strait Islander persons to undertake traditional or customary hunting of turtles or dugongs without being subject to the animal welfare obligations under the Animal Care and Protection Act. The bill will make hunting under these acts subject to the Animal Care and Protection Act 2001. I need to make the point that the bill will not extinguish native title rights to hunt, nor will it rescind any other hunting rights. The bill will, however, regulate how hunting rights are exercised. Animals will need to be killed in a way that causes as little pain as possible. At this point I will hand over to Marguerite to go through the bill or the changes in more detail.

**Ms Clarke:** Those in the chamber will have a copy of the bill in front of them. But if you read the bill from beginning to end it is quite confusing, because the amendments are in alphabetical order by the name of the act that they are amending. So what I propose to do is actually begin in the middle of the bill and start with the repeal of section 8 of the Animal Care and Protection Act. If you want to follow this in your bill, that is clause 8 of the bill. Section 8 of the Animal Care and Protection Act currently excludes acts

done or omissions made by Aboriginal and Torres Strait Islander people in accordance with Aboriginal tradition or Island custom from the application of the Animal Care and Protection Act. The bill would repeal this section. Repealing will mean that the animal welfare requirements under the Animal Care and Protection Act will now apply to Aboriginal and Torres Strait Islander people. These welfare requirements include a prohibition on animal cruelty.

Native title is protected under the Commonwealth Native Title Act. It limits when and how legislation can validly affect native title acts. The government's view is that imposing animal welfare obligations on the way native title acts deal with animals is valid under subdivisions M and N of the Commonwealth Native Title Act. In other words, we think that repealing section 8 and other aspects of the bill is valid under the Commonwealth native title law. To make it clear that native title holders are intended to be subject to the Animal Care and Protection Act, the bill actually replaces the existing section 8 of the Animal Care and Protection Act with a new section which clarifies that native title will not be a defence to animal cruelty. The Animal Care and Protection Act does not provide an exhaustive list of what is cruel, but it does include some standards to guide the courts when deciding whether something is cruel. The first standard—perhaps it is the most fundamental—is that something is cruel if it causes an animal pain that, in the circumstances, is unjustifiable, unnecessary or unreasonable.

There are also some other standards to guide the courts in more specific circumstances. I will not go through them all, but the important one is that when it comes to what is cruel when killing an animal the act says that it is cruel to kill an animal in a way that is inhumane, causes it not to die quickly or causes it to die in unreasonable pain. These are the tests that apply to cruelty for all Queenslanders. However, the currently available methods of killing turtles and dugongs that are humane and cause quick death may not be practicable in the circumstances in which hunting sometimes occurs. So to balance the welfare needs of turtles and dugongs and the hunting rights and interests of Aboriginal and Torres Strait Islander people, the bill introduces a new section into the Animal Care and Protection Act—section 41. If you are following the bill, that is in clause 10. So it introduces new section 41A that will effectively give hunters a defence to prosecution for killing turtles and dugongs using more practical methods if they can show that those methods cause as little pain as is reasonable.

I want to draw your attention to the similarity between the way the bill proposes to deal with the competing interests in traditional and customary hunting and the way the act already deals with competing interests in the control of feral and pest animals. Those people dealing with a problem with feral and pest animals may find it difficult to control them in a way that is humane and quick. Under the Animal Care and Protection Act, there is a defence to prosecution for those controlling pests and feral animals if they can prove they controlled them in a way that caused as little pain as is reasonable. That is the same test that is proposed to apply to those undertaking traditional customary hunting.

Those are the main features of the bill. The rest of the bill can be summarised as proposing to remove other exemptions in Queensland legislation that could prevent the animal welfare obligations under the Animal Care and Protection Act from applying to hunting. The bill will, first of all, amend section 7 of the Animal Care and Protection Act to ensure that a person who is authorised to deal with animals under the Nature Conservation Act in accordance with Aboriginal tradition or Island custom is subject to the animal welfare obligations under the Animal Care and Protection Act. The bill will also amend the Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act—they are the first three clauses of the bill—to ensure that a person who is authorised to hunt marine fauna under section 61 of that act is subject to the animal welfare obligations under the Animal Care and Protection Act.

Very similarly, the bill will also amend the Aurukun and Mornington Shire Leases Act 1978. Again, it is to ensure that an Aboriginal person who is authorised to capture, possess, kill or consume native fauna under section 26 of that act is subject to the animal welfare obligations under the Animal Care and Protection Act. It will amend the Nature Conservation Act to ensure that someone who is authorised to deal with animals under section 93 of that act, if it were to commence—currently it has not commenced—would be subject to the animal welfare obligations under the Animal Care and Protection Act. In other words, the amendments to all the other acts are simply to ensure that people who are authorised to undertake traditional or customary hunting of turtles and dugongs will be subject to the Animal Care and Protection Act.

**Dr Thompson:** Marguerite has gone through the main issues that are there and the main changes that are being proposed. I would just like to talk a little about our communication implementation strategy because I know these issues will be raised. The communication implementation strategy to be led by government is being finalised and will be implemented during the six-month period that will apply after the bill is passed by the Queensland parliament. In the initial information phase of the strategy, the state government will communicate the intention of the proposed legislative amendments broadly to all key stakeholders. The Minister for Aboriginal and Torres Strait Islander and Multicultural Affairs will lead the communication strategy and will write to Indigenous councils, peak bodies, community organisations, land and sea management agencies and landholding bodies in coastal areas and all relevant identified parties in order to broadly communicate the intent of the amendments. Furthermore, we intend to discuss the amendments with relevant community leaders in forthcoming visits to the communities of Weipa, Napranum, Hope Vale and Palm Island and subsequently in the conduct of ministerial responsibilities.

Phase two of the strategy will highlight communities and community leaders who practise humane hunting methods or are actively working to develop humane hunting methods and also actively engage with communities where there is evidence of community concerns in relation to the effect of these amendments. Communication and consultation will acknowledge the long-term work of many communities in dugong and turtle sustainability and in particular sustainable hunting practices and will encourage community-led efforts to ensure hunting practices cause as little pain as is reasonable.

The government is committed to working with the communities regarding the proposed legislation and will utilise opportunities arising from the existing range of cooperative management arrangements that have been developed voluntarily. These include memoranda of understanding with the government and a range of traditional owner marine resource management agreements and with the Great Barrier Reef Marine Park Authority and the important work of the Torres Strait Islander communities in the development of community-driven hunting plans. That is a brief outline of the type of communication strategy that will follow.

**CHAIR:** Thank you very much for that. What we might do now is call on the stakeholders to just give us some of their ideas. As there are quite a few here we will start in an orderly fashion. Would you like to start off over there.

**Mr Jones:** I just have some big concerns about what Jim has pointed out there. I have concerns with some of the wording that the party has used and that he has removed the Aboriginal traditions and Torres Strait Islander customs that is taking us back there to mission time and I do not like it. I will just read out some other things that I have written up. It is interesting that a bit of footage goes on TV and it just gets blown out of proportion. There are some other factors that create cruelty to animals and I do not see that being addressed at all and I hope you guys start to take it on board: plastic bags, fishing lines, fishing nets, boats, vessel strikes, starvation due to habitat loss caused by land destruction. Go back and have a look at what that is doing before you start criticising what we do just over that bit of footage.

I also see the minister for the environment, Tony Burke, says that the policing of traditional hunting is diabolically difficult given that there is much hunting that occurs in remote areas. He just needs to know that Quandamooka is not a remote area; it is only 30 minutes from the centre of Brisbane. But he does enlighten some things: if we spend more money on enforcement, yes, you need to spend it correctly, and I will go through what I have written up. Traditional hunting does not occur just in remote areas and it is not just about dugong and turtle for the Aboriginal people in Queensland. You have to think about porcupine and goanna. It is going to affect that stuff. This will have a major impact across all Aboriginal Torres Strait Islander people across Queensland who hunt and gather resources. In creating this legislation, it once again shows the new method of suppressing our people under a system of control that has developed before and during the mission days. We are now living in 2012 and this standard and mindset still remains, just expecting a different outcome. We have been here for a long time and will continue to be here for a long time to come and have not gone away anywhere. So when you decide to talk to us on cultural grounds to get the best outcome, only then will we succeed in achieving the outcome required.

When someone is threatening and tormenting someone in the schoolyard to make them change they call this bullying and it is not tolerated. If the workplace changes the policy to prevent people from practising their cultural ways, this is deemed as discriminatory and is unlawful and is not tolerated. So why is this amendment bill on the table any different? Implementing legislative changes to satisfy some or a few does nothing but keeps broadening the wedges between our mob and non-Aboriginal and Torres Strait Islander people, and especially government and some non-government agencies. There are more pressing issues out there for this government to be focused on and make changes to that will have a positive impact and create the required changes for all. Once again, we have government telling us what is best for us and, once again, that will fail. Excuses will be made, this one will blame that one and we will be back on the same road we were before. You are bastardising our culture, traditions, beliefs and customs and you have done so since your ancestors stepped foot on our land. To make this work you need to be working with the right people of the lands and sea. My concern is that the proposed amendments will give the authorities the right to seek prosecution and send me, my 16- and 10-year-old son and grandson and other mob to prison because it is unjustifiable, unnecessary or unreasonable to injure or wound an animal or kill an animal in a way that is inhumane or causes it not to die quickly or causes it to die in unreasonable pain, as they say in their act, just because we are practising our culture according to our beliefs and standards. Respect our culture—Aboriginal culture, Torres Strait Islander culture. Do not dictate our culture to me or our mob. We have a culture—one that has been around for a long time. Aboriginal and Torres Strait Islander people have asked for the funding for many years to enforce the law but the governments of the day for some reason ignore, disregard and take no notice of what we need. It is not just about enforcing the law; it is about traditional custodians managing our cultural system on country the way we believe is the correct methods.

The reason I take the resource the way I do is that there are consequences to my family and, if done wrong, Quandamooka as a law will give out punishment. If you do the wrong thing while hunting the consequence is that a family member could die. My mother said her father—my grandfather—who was a professional net man and fished in Quandamooka experienced this firsthand. When coming back from fishing they spotted a dugong and shot it with a .303 rifle. That night his cousin passed away. He done this on two more occasions and the same thing happened. From that day on he chose not to take any more dugong. I have not had this happen since I have been hunting dugong for the last 30 years and I put this

down to what I do and how I do it—no shooting. I do not intend changing regardless of any changes to laws. The animals, as people call them, to us are a part of our cultural system that has a purpose for our mob and provides us the things we need. When the purpose is broken or altered our mob suffer in many ways. We are not given the moral and ethical opportunity to plan, develop and implement our cultural systems to the fullest potential the way we see benefiting all people. Thanks.

**Mr Burns:** What I want to say is that Quandamooka people have the newest national park in Queensland in Moreton Bay on North Stradbroke Island. It is a jointly managed national park and we are really struggling to make joint management work because it is just something the state government and the bureaucracy was not prepared for. We have a lot of issues with the Queensland Parks and Wildlife Service's ability to work with us and do land and sea management the way we want to do it. The problem is so bad that our joint management arrangement is, in the words of the regional manager of the Queensland Parks and Wildlife Service, broken. His words also were rangers are not employed to pick rubbish up off beaches. We have just had significant weather events across Stradbroke Island where the beaches are just strewn with rubbish. We believe that rubbish should be picked up so it is not back in the system harming the animals and the rest. So there is a fundamental flaw in cultures. I will not go on and on, but my point is we want to see the government start looking at land and sea management through our eyes jointly before we can really accept these new things that come in. I will leave it at that, thank you.

**Dr Anderson:** The history of the taking of dugong has been part of the cultural practices of the Quandamooka since time immemorial. My grandmother's brother, Sam Rolands, was known as the dugong king. He used to net the dugong during the late winter months when the animals would put on a lot of fat. He made his nets from the yoorala vines that grow in that area out towards the Two Mile, as it is known, on Minjerribah/Stradbroke Island near Yoorala Creek. They would tease the vines until they became fabric and he would weave the nets and then go and stake the nets on the outer banks knowing the movements of the dugong, where the dugong had been feeding by studying the patterns of the grasses that the dugong fed on. When the dugong was taken every family had a taste, as they called it. It was portioned out to the members of the families so that everybody enjoyed the fruits of the fishermen.

As time progressed and we came into a money economy, Sam Rolands used to sell his dugong oil in quantities to two of the big chemist suppliers in Brisbane, Alfred Lawrence and Tailors & Elliotts. We had to make the transition from the exchange system to the money system. That was done with the principles that Quandamooka people always carried out, which is our responsibilities to not over fish. We have two groups, the dugong group and the turtle group. Family representatives are involved in that process to see that the areas are not fished out.

We take the matter very seriously. What we do is to ensure that the information is passed on to the oncoming generations. Myself, I am a father, a grandfather with six grandchildren and a great grandfather of four great grandchildren. The information I have is passed on down through the family so that they have full knowledge of what their cultural estate is all about and what it provides for sustenance and meaningful matters to the Quandamooka people. The principle we always adopted was sharing. Equity was the keynote of the Quandamooka people and still is.

**CHAIR:** Thank you, Robert. Craig, would you like to say something from the local government point of view.

**Mr Johnstone:** The Local Government Association of Queensland is the peak body representing local governments in the state. By way of introduction, I will say that of the 73 local councils in Queensland that are members of the LGAQ, 17 are Aboriginal and Torres Strait Islander communities, which means that greater than one-fifth of our membership is Aboriginal and Torres Strait Islander councils.

We will restrict our comments to the process that was gone through to introduce this legislation, rather than the intent of the legislation itself. We are very concerned about the lack of consultation associated with the bill and the apparent need for the state government to expedite the legislation and usurp what are usual practices. We realise that this was part of the 100-day action plan that the government is pursuing, but we also need to point out that the LNP government does have a policy of properly empowering local government and giving people a real say on the future direction of their community, just to quote an LNP document. We do not think that expediting the parliamentary committee process in this way and this legislation honours that commitment.

We also are conscious that the LNP is committed to introducing a partners-in-government agreement, which we understand will promise to give adequate prior consultation for any legislation introduced that may affect LGAQ membership and, of course, local communities. Again, we do not think that the process that has been followed here honours that commitment.

**CHAIR:** The RSPCA, would you like to say something?

**Dr Paterson:** We are a welfare organisation and so, in that sense, we welcome any move that improves the welfare of animals. Having said that, I do actually agree with the first speaker that there are lots of other issues that cause welfare concerns for dugong and turtles, including boat strikes, rubbish in the sea, flow-off from agricultural land, et cetera. We would like to see a more wholistic approach where everything is looked at, and not just one group of people blamed for something. Bycatch from fishing is a huge thing—

**CHAIR:** Mandy, I do realise that. Hopefully at some stage this committee will get to look at some of those issues. We will get back to the legislation.

**Dr Paterson:** Given that I have said that, we were also concerned about the methods that are available for people to kill turtles and dugong. The government really would need to fund research into looking at ways that can be used to kill these animals humanely. There are several projects happening right now, but I do not know that they will be finished in six months. Without any sort of funding, the RSPCA is doing one, along with Seith Fourmile who is on the phone, and we are progressing this but we are paying for it on our own behalf at this stage. I guess that is all I want to say. Annabel has some concerns as well.

**Ms Buchanan:** I also acknowledge what Mr Johnstone said in that there has been a little bit of a lack of consultation leading up to this. Whilst we do obviously applaud anything that introduces improvements for the welfare of animals, we think there are some major issues about how we can come up with those humane methods. It is fine to say that you can cause as little pain as is reasonable, but the actual application of that clause is very difficult. Certainly Marguerite raised the issue about that clause being applied to feral animals. However, in my experience it has not been applied successfully to feral animals. There is a common practice that goes on with the hunting of pigs using dogs. There are lots of things that go on with feral animals that I do not think are acceptable in the mind of a reasonable person. You are leaving it up to the enforcement agency, with limited resources, to test it in courts to find out what is reasonable in the minds of people. I would raise a little issue about that.

Also, Mr Jones referred to enforcement. Enforcement is going to be a problem. There are current practices that take place that are not necessarily enforced. I would point at some of the things that go on with domestic animals that do not get enforced, as well as possibly the sale of dugong and turtle meat. There are other issues. I do not necessarily see that in six months we are going to work out how this legislation can be enforced.

**CHAIR:** Thank you very much. As the committee has looked into this issue we have realised that it is a very complex issue. We do understand that it is not simplistic.

**Ms Buchanan:** I raise one other issue: imprisonment for this offence. Certainly there have been no custodial sentences or very few that I am aware of under section 18 of the ACPA.

**CHAIR:** Would you like to make a comment?

**Mr Nona:** I just want to go back to the fact that we are talking about the humane and inhumane killing of the animal. I know this is a very short time for someone to come up with some classification, but I would like to say that turtle and dugong are spiritual to saltwater people. We do have an attachment to the animal. Because we are talking about a species that is liked by all of Australia as is the koala bear, that does not mean we do not feel sorry for the animal that we are killing because it is meat upon the table.

I suppose it is going back and getting people to understand, and for your committee to really find out, what is humane and what is inhumane in this process. We have been doing this since time immemorial, how we have been taking and how we have been killing it for the meat on our table. As I have indicated earlier, it is spiritual to our people. Who best to be in a position to feel the pain of something that is spiritual to them, that is being killed in front of their eyes. Some of these animals are totems to us. That is another connection that we have to the animal. I think that needs to be looked at when looking at humane and inhumane, and getting people to understand that process.

**CHAIR:** Thank you very much. The committee has done a little research and we do realise that they are a difficult animal to kill. We realise that it does take a number of minutes to kill a dugong, for instance, even after it is speared, et cetera. I think the department realises that as well.

**Mr Ahmat:** Mr Chair, your opening comment was about interested parties who will be affected by this new bill. I am appalled—I really am appalled—with this committee and the minister's department when the Cape York Land Council, which represents 16,000 traditional owners from Cape York, does not get an invite. That is the first thing I want to raise here.

You talk about looking after cruelty to animals. The land council and the other regional organisation, the Balkanu Cape York Development, have had two meetings funded by the federal minister, Tony Burke, to address the inhumane way that turtle and dugong are actually killed. What annoys me the most is this committee, last week on Wednesday, sends an invitation out to all interested parties who will be affected by this bill to have a meeting today in Brisbane so that this piece of legislation can go through next Monday. As a brother from Quandamooka said earlier, the missionary days are long gone; they are long gone. We had another party in power for 20 years. The LNP has come in. The Premier, Mr Newman, has made a lot of statements about Aboriginal and Torres Strait Islander people in this state. From his comments to what is happening here today, we seem to be going back to the old days.

With the hunting of turtle and dugong, this new bill is taking away a statutory right, our native title right. It is the white fella who is taking away that right again, who thinks he knows what is best for us Torres Strait and Aboriginal people. I urge you: this bill cannot be legislated on Monday until there is a proper consultative process that happens all over Queensland for Aboriginal and Torres Strait Islander people all over Queensland who will be affected by this bill. If this is to be a legal process, that is what has to happen. You cannot rush things in over Aboriginal people who are trying, too. The Queensland government is a member of COAG. In COAG, it is all about closing the gap and welfare reform. Mr Chair, I urge you and the committee to understand where Torres Strait and Aboriginal people are coming from in Queensland.

**CHAIR:** Thank you, Richard, for those comments.

**Mr Kris:** This is Mr Kris from the Torres Strait Regional Authority. There are a lot of noises coming through, so we really cannot hear most of the people who are talking. I thought I would come in and thank the committee for giving us the opportunity to be part of this hearing. It is good that we can all get together at a round table and discuss this. In saying that, the Torres Strait Regional Authority does not support these amendments. We say that because there has been a lack of consultation with traditional owners about this bill and it sends a clear message to the Aboriginal and Torres Strait Islanders about the state government's view about basic rights to cultural identity and wellbeing of our livelihood. The government must also take into consideration and appreciate that we also have an international border. Parts of that treaty relate to traditional hunting for traditional owners who participate within the treaty.

I believe that the process around the bill undermines the rights of our traditional owners and undermines the significant investments and achievements made by Aboriginal and Torres Strait Islanders over the past years. These achievements have been significant in conservation gains for both turtle and dugong, something that benefits all Australians. The traditional hunting by Aboriginal and Torres Strait Islander people has been practised before colonisation and has been passed down through generations. People have to appreciate that, as in other seafaring cultures, meat has been processed this way for thousands of years. These hunting practices are, therefore, vital to our cultural identity and wellbeing of our livelihood. We are very disappointed that these discussions are being made without due consultation with traditional owners prior to the development of the bill. There has been no consideration by the state government on how such new legislation will impact on the cultural practices of both Aboriginal and Torres Strait Islander people in the Torres Strait.

In the Torres Strait, we have for years now been supporting and encouraging communities through their community based management plans to sustainably manage their own resources, supported by western science and education. We now have 15 plans in place. The plans include descriptive husbandry actions that apply to captive animals. This proposed bill does not recognise that the Torres Strait Regional Authority has already consulted with the animal welfare organisation, the RSPCA, and other conservation agencies on what constitutes killing animals humanely. It does not recognise that we have actively been seeking solutions but that the experts simply cannot agree on acceptable procedures.

It appears that the bill's key point is that it is not an offence to kill an animal if it is done in a manner that causes them as little pain as is reasonable. I am not sure what the legal definition of 'reasonable' is in this case and whether cultural significance and the wellbeing of our people is indeed a consideration in this definition. However, from what I can interpret, the proposed bill will mean that we will need to kill an animal before butchering and it would be an offence if we have not done so. Certainly this is the practice for dugong.

With dugong, the effective means of capturing and managing the animal safely and humanely in a small boat is to drown it as soon as practicable. TSRA is working with the traditional owners in the region with other stakeholders on improving animal welfare, particularly with the green turtle. These practices are currently being discussed for inclusion in the management plans. The Torres Strait Regional Authority is leading a project with other stakeholders on identifying a prototype device as an alternative tool that humanely euthanases green turtles. We will be working with a number of stakeholders, including the RSPCA, on the matter.

The bill proposes to restrict traditional owners from consuming traditional foods outside of community, government or Indigenous regional council areas. I would like to point out that this amendment was not a commitment taken to the 2012 Queensland election and is a complete surprise to the Torres Strait Regional Authority and the traditional owners it represents. I would also like to make the point that maintaining legal rights to carry out traditional practices, including transporting traditional foods to traditional owners living away from the Torres Strait and the legal consumption of other products, is vital to their cultural identity, cultural wellbeing and livelihoods. This proposed change will have a profound impact on traditional owners who are already living away from their traditional land and sea and away from their families. It will deny traditional owners of the Torres Strait currently living on the Australian mainland access to a resource that is vital to their cultural identity and wellbeing.

If the state government is serious about addressing the issue that is currently being debated in the public media, there needs to be more discussion with communities about what the current practices are. The state government also needs to talk to the experts, scientists and communities about what has already been done to address problems, rather than fast-track this bill that could unintentionally or unnecessarily have negative effects on the cultural identity and wellbeing of Torres Strait Islanders and Aboriginal people including damaging our reputation and undermining our traditional rights.

**Councillor Abednego:** I am John Abednego from the Torres Shire Council. Someone mentioned the bill is going through today.

**CHAIR:** No. It is not going through today. We are having a meeting today.

**Councillor Abednego:** I cannot pick up some of the discussion. I just wanted to mention that legislation that impedes cultural practices is discriminatory.



**CHAIR:** I will explain what is going on. We are having a meeting today. We have to table a report of this committee by Monday next week. Then that committee report will be discussed in parliament at a later date as the bill goes through.

**Councillor Abednego:** There has been insufficient consultation on this important issue from the Aboriginal and Torres Strait Islander perspective. We have to be consulted properly.

**CHAIR:** Part of the bill, unfortunately, is that consultation will happen after the legislation has been passed.

**Councillor Abednego:** I strongly recommend that we have a delegation to meet with the Premier to talk about this issue.

**CHAIR:** You can ask the Torres Shire Council. I am sure that we can more than likely form a delegation to come down and do that if you require that.

**Mr Piper:** I am Terry Piper from Balkanu. I will keep my comments short because I think others have a number of things to say. I would just like to raise a couple of things with what the departmental officers have said in their presentations, and I need to point out that people need to talk straight on what this bill does. The statement was that the bill will not rescind any other hunting rights, but within this bill there is the requirement that wildlife taken now has to be consumed within the community. So the provisions that used to apply under the Aboriginal and Torres Strait Islander communities act are now being amended. It has nothing to do with animal welfare and it was not part of any election commitment, but that is within this bill. The officers of the department told nobody in their presentation that that is part of this bill. So that is point 1.

Point 2 is that it is not correct that all people have to apply cruelty in the same way, because my understanding is that the defences that apply to religious practices are not being touched in this bill. It is particularly focusing on Aboriginal and Torres Strait Islander people, and the defence that applies to religious practices is not being touched in this bill. Also, I would like to say that we appreciate the work that the RSPCA is doing with various Indigenous groups. We believe that, if this legislation goes through, these kinds of things have to be enforced by Indigenous people and Indigenous rangers. We do not believe that the RSPCA is equipped and appropriate to enforce this kind of legislation. I will leave it at that.

**CHAIR:** Thanks.

**Mr Fourmile:** I am Seith Fourmile from the Gimuy Yidinji group in Cairns. I suppose I still have reservations—and I agree with what the Torres Strait Council has already stated in regards to traditional hunting. We are working closely with the RSPCA as well to look at humane ways of killing turtles and dugong. But with respect to what is known as a halal kill in regard to the spiritual side of killing the animal, that has not been addressed neither here in parliament nor anywhere else. There is a process in dealing with that aspect as well which no-one has actually looked at or deliberated upon.

I know that the tradition of what is called a halal kill still continues. How is this different? Because of the way of the world at the moment, we are looking at ways to see how we can work in with the RSPCA to find a way to improve our killing methods. But this will take time and the legislation does not actually work in with the timing. The legislation will be put in place before any outcomes or any deliberation can actually be made in regard to the best process.

**CHAIR:** That is part of this process. Hopefully the committee will be able to make some sense out of some of this. So hopefully that will come with some of our recommendations.

**Mr Fourmile:** I can hardly hear you. I am having the same problem as the other people up north are having. It is very hard to hear the people from down south.

**CHAIR:** Is that all you have to say?

**Mr Fourmile:** Yes. It is very hard to hear what people are saying down there. There are a lot of interruptions.

**CHAIR:** Is that better?

**Mr Fourmile:** Yes.

**CHAIR:** As I was saying, the committee will hopefully make a little bit of sense out of that legislation. That is part of the process. We will make recommendations after discussing this with yourselves and with the departments. After hearing the arguments, we will make recommendations to the parliament and hopefully the ministers will take note of some of recommendations which should make this whole process a little bit clearer. Okay?

**Mr Fourmile:** Yes. So when will the parliament get these recommendations and how soon will they be available for the community?

**CHAIR:** We have to report our recommendations by Monday next week. That is why it is so rushed. The bill was introduced to parliament last week and we have to report by Monday next week. Today's meeting is being transcribed and a report will be done on this hearing by tomorrow. The committee will then read the report and have some discussion so that we can finalise our report by Monday to then table the report. Then the parliament at a later date will discuss the bill before it becomes legislation.

**Mr Fourmile:** Can our comments be made to you? Do we need to make them now or can we put them in writing to you?

**CHAIR:** You can make them now or you can put them in writing to us. You can send us an email. Do you have our email address?

**Mr Fourmile:** Yes.

**CHAIR:** If there is anything else you want to add, you can send us an email. We might continue. We have a couple more speakers to go here and then we will ask the department to answer some of the questions.

**Miss George:** I am Melissa George from the Indigenous Advisory Committee and a Wulgurukaba traditional owner. Firstly, I just want to say that the reaction of the government to listen to the voices of a few people without giving proper consideration and respect to Aboriginal and Torres Strait Islander rights and interests around the species is something that is quite frustrating and is a process that should not be undertaken without proper consultation, as my colleagues have said here today. The time frames are unreasonable and because of this it does not demonstrate any judicial justice for Aboriginal and Torres Strait Islander people within the state of Queensland. I think that essentially the amendments to the Aboriginal and Torres Strait Islander community act are discriminatory, especially clause 3 under section 61 because it targets a specific group of people who live on communities and does not deal with other people outside of those communities.

I think there is a lack of understanding and capacity from the government about the work that has been undertaken at a community level. There is a lot of cultural authority that is being reinstated or is being built on at a community level where community members are making decisions about how these processes take place. It is unfortunate that in the drafting of this bill none of these issues have been considered and there has been no discussion with those individuals.

From an enforcement perspective, I think it is quite unreasonable for the government to expect that someone is going to be looking at 18 months imprisonment or a \$100,000 fine for carrying out a practice. No. 1, how is this going to be enforced? No. 2, there has been no consideration given by the fisheries minister to the legislation making special consideration for community enforcement powers of community people. That is specifically section 26 of the Queensland Fisheries Act. These issues that exist within existing statute in the state need to be pulled out to see how they can be utilised as a positive and give advantage to Aboriginal and Torres Strait Islander people and the rangers who are employed within those communities to undertake a certain level of activity.

As I said, regarding the issue of cultural authority, communities are coming together and saying, 'We know there is a problem. We understand there is an issue and we are the people best placed to deal with that issue.' There has been some conversation about developing best practice guidelines for hunting. If this is going to take place, this has to happen from the hunters themselves. It cannot come from a roundtable with animal welfare groups, scientists and government. It has to be directed and authorised by the traditional owners and the Indigenous people within those communities that access those species.

From our perspective it is a pretty much predetermined decision about this legislation. The bill is going to be passed in a very short time frame and then consultation will happen after the passing of the bill. That does not demonstrate any judicial justice. It does not give people an opportunity to make amendments to the bill before it is passed in parliament. I think if the same process was happening to fisheries—for example, amendments were being made to the fisheries legislation under the animal welfare and cruelty act—you would have a very different approach to dealing with the issue because you are dealing with recreational fishers. You could probably assume that there would be a very long consultation process. Those individual organisations that represent the interests of that sector would have had consultation and negotiation take place. It is just unfortunate that it is once again dealing with the rights and interests of Aboriginal people. It is discriminatory. There is no equity in the decision. If the same process and provisions are going to be applied to Aboriginal and Torres Strait Islander people around the harvest of turtles and dugongs, then the same consideration needs to be given to recreational fishermen around the harvest of the species that they access on a daily basis within Queensland waters.

We can sit down and have a conversation about the broader scale things that impact on habitats and species. From our perspective whether you are in a remote community or in an urban context, Aboriginal and Torres Strait Islander people are the people best placed to help manage that resource. It is unfortunate that there has been no support from the Queensland government in the past 10 to 12 years for rangers, community authority, community issues and responses to these issues. That has not been supported by the state and it would be remiss of the state to continue to go down this path. As I say, Aboriginal people are well placed to manage their estates and to work with agencies to support the management of their estates, and this needs to be recognised. An example from an enforcement perspective is there are two patrols that go to the Cape York region per year. If there is an issue about overharvest or cruelty to animals, who is going to enforce it? It has to be community people—Aboriginal and Torres Strait Islander people.

In closing, once again I want to say that we think the changes in this bill are discriminatory. I think it is unfortunate that the department that has been developing this has not taken it upon itself to have conversations with peak organisations that represent the interests of Aboriginal and Torres Strait Islander people. The department obviously does not have the capacity and understanding about what this issue is and what it means for Aboriginal and Torres Strait Islander people.

**CHAIR:** Thank you for that. Is there anybody else on the phone who has not spoken yet who would like to make a comment?

**Miss George:** Chair, can I make one more point? The changes to the bill state what is to be deemed cruel or cause unreasonable pain. A question that is being asked by traditional owners of me is, 'Who determines what that is?' You may have someone who is carrying out a cultural practice which may dispose of the species or kill the species quite quickly but it may not seem humane in the eyes of your average punter who is on a beach.

People have changed their practice to deal with the concerns of other citizens for quite a substantial amount of time and now we are coming up against a process again. Who determines what the activity is? The Law Reform Commission in 1986 said that it is not the method or the practice but the purpose of the practice that prevails when it talks about traditional hunting. How is that going to be determined? Is it going to be welfare groups or scientists who determine that, as it states when the bill was presented to parliament? It says that these groups will have the opportunity to work with traditional owners to develop appropriate methods, but that is a question that has been put to us quite substantially by traditional owners. Who determines this? And what is cruel and what is not cruel?

**CHAIR:** That is a difficult question of course. Community standards are changing all the time. I had an uncle who used to go to legal cockfighting with roosters. Community standards have changed over the years that is for sure. Would anyone else like to say something?

**Mr Kris:** I have a comment on consultation. If we are going to start changing acts without consultation, we need to really look at the Commonwealth and how they adopted the United Nations Declaration on the Rights of Indigenous Peoples and their cultural practices. If the government is going to start changing legislation that spoils Indigenous practices without consultation with traditional owners, that is really bordering on discrimination. What the government needs to do is to take into consideration that the Torres Strait Regional Authority, with other stakeholders such as the local shire council within our region, has worked tirelessly in putting up programs within our areas to look at tackling issues such as these. When the *7.30 Report* was aired it had only one shot of an event and that blew the whole thing out of proportion.

We need to go back and look at the work that has been done within the region before we change any legislation. There has to be thorough consultation. The state government needs to take into consideration the treaty between Papua New Guinea and Australia and the traditional inhabitants that that treaty applies to. If you are going to start changing traditional practices—we are not going to change any practices; we need to do some consultation. I will have to leave it there because we are about to jump on a plane. I thank the committee for giving us this opportunity and we will certainly be putting in our submission.

**CHAIR:** Thank you very much, John. I have an email that will be tabled today by Dr Mark Flint, who has been working with Torres Strait island committees looking into the humane treatment of these animals. I do realise that you have been working on this project as well.

**Mr Ahmat:** I understand there is some urgency with the Premier's 100-day agenda, but for the committee to say that decision and discussions on this legislation will be made next week and if it is passed you will then go out and consult is putting the cart before the horse. Everybody in this state is trying to address the inhumane way that we kill turtles and dugongs. Elders and communities all over the Torres Strait and the cape are getting together now—we have already had two meetings—because we do not accept the way it is going. We want to find a safer method to extinguish any pain to the turtle. I want it noted that this bill should not be passed in this parliament next week—

**CHAIR:** The bill will not be passed, Richard. What we will do is we will give some recommendations next week and they have to be tabled next week. Under the legislative authority given to us, we cannot get out of it. We have to table some recommendations next week.

**Mr Ahmat:** Yes, but I feel from some of the responses from your side the recommendation will be, 'This bill will be passed when it is debated in parliament.' That is my concern. I want it noted that Cape York, in partnership with everybody else in this room who is a traditional owner, would oppose the bill until there is a proper consultation process carried out over the next six to seven months. It has to happen because you are interfering with Aboriginal lives, culture and livelihood.

**CHAIR:** Thank you, Richard.

**Mr COX:** It is at the direction of the committee that we have asked for more stakeholders to be involved today. My understanding of what has been brought up today is to look at some of the points within the bill, the main one being that of determining what is reasonable pain. I think the point of the committee was to look at recommendations like that. We are not here to try to stop it all together. The bill, from my understanding, was put forward at the time of the election and the committee needs to look further at this. That is part of why it has been brought to the committee. It is in recognition of the traditional hunters of dugongs and turtles that the committee has been asked to say that we support it being continued, but it is more the way in which it is done. To ensure it continues in the eyes of the public who wish it to be stopped they need to understand that this is a traditional method of killing.

That is the only comment I want to make. I appreciate the fact that we have had all these stakeholders comment today. I do not think anyone is denying the fact that traditional people, as has been mentioned by the chair, have done an excellent job in looking after their own natural resources. That is all I would like to say.

**CHAIR:** Sam Cox is the member for Thuringowa.

**Ms TRAD:** Firstly, let me start by thanking everyone for coming today. I understand that many of you have come a long way and it has been a very short time frame. I think many of you will know that I am not from the government benches so I can probably feel free to say some things that I understand might be consistent with what you are saying.

I am as concerned as many of the Indigenous representatives here are with the time frame. I understand this is an incredibly complex issue and one that impacts upon your livelihoods. It might be neat to fit into a 100-day action plan but you people have to live with the consequences of this for years and years to come so I acknowledge that from the outset.

Melissa, you raise a very important question about the definition of cruelty—what constitutes cruelty. There is a framework currently in the original act but there are, I think, ways that people can interpret differently what is actual cruelty. It is something that has been raised and provided to the committee by Phil Rist from the Giringun Aboriginal Corporation. He says it is a matter of extreme urgency that we have to settle what the definition of 'cruelty' is.

Unless we do that, it will impact upon the fairness and proper traditional practice that many custodians have been conducting over a number of years. So that is a matter of urgency that has been raised. He also desires more time for that definition to be examined and to also talk about how to properly analyse the consequences of these new amendments and how that will affect people in terms of their traditional custodian practices. I am very concerned, Terry, that you raised the issue about the fact that this may in fact be rescinding some current rights as an unintended consequence and I would not mind you just fleshing that out a bit more for the committee's understanding.

**Mr Piper:** With regard to the amendment to section 61 of the Aboriginal and Torres Strait Islander communities act—it has a much longer name—under the current situation people from a community can take dugong and turtle. What this amendment means is they have to consume that dugong and turtle back within the community or the local government area. That has nothing to do with animal welfare. It was never part of the election commitment. In our view it is a sleight of hand that has happened in the act to change Aboriginal people's rights, and it is not appropriate for that kind of thing to happen without any consultation or advice, and it has broad-ranging implications on Cape York and the Torres Strait.

**Ms TRAD:** Thanks for that, Terry. I was interested when Horace talked about the spiritual connection with the dugong, and certainly there has been information provided to the committee from Professor Helene Marsh who says that the dugong habitat in the Torres Strait is very healthy—very large and very healthy—and they have not detected any sort of decline over the 25 years that she has been studying dugong populations. So obviously, as has been already said, your management of the dugong population has been incredibly good. I am just wondering in terms of traditional hunting practices and your spiritual connection, what is the traditional understanding of cruelty and the practice of killing and how the animal feels about that?

**Mr Nona:** As a hunter myself, going through law is a big part of our hunting processes. We have always taken the same steps when we are cutting up the meat of the turtle. We feel that it is probably the only way that we see that there is a connection from the animal to the sea to the person that is hunting it. If you want a more humane way, if you could call it humane, we could put a gun to its head and shoot the animal in the head. Is that humane, or is what we are doing now more culturally connected to not only the habitat but the person that is hunting and the animal in question and that sort of stuff? But I think the message there is that we also have to take into consideration that it is a part of our law. When a man is teaching a son, he teaches him through that process. That process is where the son becomes a man through this process where he has to take his first turtle, cut the turtle and share it amongst the appropriate people in the community.

**Ms TRAD:** Thank you, Horace. I think they are all of the questions I have to ask. I refer to the instances that led to this—and I think it was you, Mark, who said that a couple of instances have blown this all out of proportion, and I think I am paraphrasing you. If I am not adequately representing you, please say so. You said that you are being asked to pay for a couple of public events that were captured. How would your community feel about those images that were on the *7.30 Report*? Has there been discussion in your community about that?

**Mr Jones:** It has nothing to do with my community what them guys do up there. It is more about what happens on my country. I am not going to tell them fellows what they do. They do not tell us what to do. That is their business. That is our business. That is our culture. Just think, if the cameras were not there we would not be here. That is something I have said on NITV. If the cameras are not there, they do not see. So we need to prevent some of these people who come into our community from going where they need not go.

**CHAIR:** We have to accept though, Mark, that the world now is such that everyone has a camera. You have probably one on your phone in your pocket right now. That is where the world is. It does make it difficult I realise. Look at the cattle issue overseas. It was because someone had a camera in a killing works. There are cameras and people are going to be judged by what they see on cameras unfortunately.

**Mr Jones:** An that is fine. They always warn you before the next show comes on that all this stuff is going to happen. Turn it off. Go somewhere else. It is same thing. If you see me out on the water, take your boat and go somewhere else.

**CHAIR:** We might go back to the department now to respond to some of the comments that have been raised.

**Dr Thompson:** I think there were probably a number of issues that were raised that probably require some input. The first of those around the communities and the issue about the restriction I think would be handled by the Aboriginal and Torres Strait Islander department. The other two were around religious slaughter exemption and who and how it is determined which techniques are used. I think they probably require some input and I will get Marguerite to comment on those. I do not know if you want to start with the communities one. If so, I will hand over to Carmel for that.

**Ms Ybarlucea:** I just thought I would give a bit of background about section 61. Section 61 provides an immunity for hunting and consuming marine fauna in basically a DOGIT community and in some regional council areas. The amendment will mean that that immunity from the provision of any other act will not apply unless the meat is consumed in the community and it only relates to marine animals. That is just a point of clarification. I just wanted to make that clear. That is the effect of the amendment.

**CHAIR:** Is there any particular reason why that has been introduced?

**Ms Ybarlucea:** I understand it is in response to concerns that there may be the selling of turtle and dugong from the communities—so transporting and sale.

**Mr Fourmile:** I am from the Yarrabah community. I am Yidinji but my traditional country is in Cairns. My young fellow turned 14 and I took him out to hunt as well for turtles. The thing is, like was said before, it is part of their initiation and young fellows have to go through that process. But the thing is this section would affect us with regard to what do you classify as a community? Is a community as in a DOGIT community or is it a community as in Indigenous traditional communities, because if that is the case if we hunt turtles here I would have to go over to Yarrabah to eat the turtles? This legislation at the moment is discriminatory and now it is going to impose another act so that we cannot consume our traditional food source in our traditional community. So the legislation now is going to define 'community', which again restricts and discriminates against us once again with regard to where consumption is to take place. So the time frame is inadequate. The legislation is inadequate. With regard to—

**CHAIR:** Let us get a response—

**Mr Fourmile:** With regard to hunting, I suppose it was brought up by Melissa and many other people around the table here the concern about what actually institutes how you may kill—

**CHAIR:** Let us get a response to the communities question first thanks.

**Ms Ybarlucea:** Mr Fourmile—

**Mr Fourmile:** It is getting longer and longer drawn out with regard to this legislation and if it gets passed. That is all I have to say.

**Ms Ybarlucea:** Mr Fourmile, section 61 of the Aboriginal and Torres Strait Islander Communities (Justice, Land and Other Matters) Act only applies to particular communities, not all of Queensland. So if you were hunting off Cairns, section 61 would not apply to you. But I accept that there needs to be further explanation around that section.

**CHAIR:** Thank you. Have you got any more that you would like to go through, Jim?

**Dr Thompson:** Yes. Marguerite will cover the other two issues that were raised. One was religious slaughter exemptions and the other one was who determines what techniques are used.

**Ms Clarke:** Just for those who are not aware, section 45 of the Animal Care and Protection Act provides an offence exemption if an animal is slaughtered for human food in accordance with a religious faith. If it were not for that, then some forms of religious slaughter—for example, slaughter without prior stunning—could constitute animal cruelty in Queensland. So although the exemption for slaughter for human food in accordance with a religious faith has been in place since the Animal Care and Protection Act came into force in 2001, to date none of the registered meat-processing facilities in Queensland have performed slaughtering practices in reliance on that exemption. Currently there is some slaughter without prior stunning in accordance with a religious tradition in some other states of Australia. There is a national process under the Australian Animal Welfare Committee looking into religious slaughter and issues around religious slaughter and what standards should apply to religious slaughter. So there is a separate policy process that is looking at that issue. I guess I just wanted to clarify that that is a separate process and that none of the current meat processors in Queensland are slaughtering without prior stunning.

**Mr Fourmile:** I have a question. Which religious domination actually decides what is a religious slaughter, because Aboriginal spirituality is a religion and it is constituted by our lawmen and our process that was there for thousands of years. Is it the Anglican—

**CHAIR:** I might get you to send us an email on that one, Seith, because it is probably outside the parameters that we are looking at today. We will just continue on.

**Ms Clarke:** The other thing that we wanted to talk about was how cruelty would be determined. This has been raised a lot—that is, why is there not a clear explanation of what will and will not be allowed? Our advice is that hunting practices for turtles and dugongs will vary from one community to another and the intention is not to impose particular practices on communities but to encourage communities to work with scientists, animal welfare groups and others to agree on what is reasonable in their circumstances while recognising tradition and custom. So I want to clarify that ‘reasonableness’ is a term with an established legal meaning. It is used as a standard for determining liability across a lot of pieces of legislation. So this is not something that we have dreamt up, and it is currently used in the description of what constitutes cruelty for all Queenslanders. So it is not just in relation to Aboriginal and Torres Strait Islander peoples.

The courts have emphasised that the question of reasonableness needs to be measured according to the circumstances of a case. So there will be situations where something that might be reasonable for one person will not be reasonable for another person in a different set of circumstances. Rather than being specific about particular methods in the act, and this is across a number of instances, the preferred approach is to provide guidance in other ways. Say, for example, in a number of animal industries, guidance on what is reasonable has often been worked out over a long period of time. It might begin, for example, with industries coming up with their own code of practice. Some of these have been formalised into voluntary standards that are adopted under the Animal Care and Protection Act and, in fact, there are national processes looking at making mandatory standards. But that does not mean that the general requirements not to be cruel to animals had not applied to those industries well before that guidance material was worked out over time.

The preferred approach is not to put something prescriptive in the Animal Care and Protection Act across a whole range of industries and animal use situations, but to allow those things to be worked out over time and as consensus develops to make that guidance available. That can take different forms in different situations, but that is an option here.

Just one other point that came up that we wanted to cover off on is the concern about enforcement. Just as a general comment, it is not possible for the government to investigate every possible animal welfare offence and promoting voluntarily compliance—that is, community based compliance—is a fundamental base of the way that we encourage compliance with the Animal Care and Protection Act across the whole Queensland community. We are not proposing to take a different approach here. Even when an investigation identifies that there is some sort of animal welfare issue, it may be that activities designed to raise the awareness of people that what they are doing is unacceptable and to educate them as to alternative ways would be a better use of government resources than prosecuting them. I am mentioning that because I want to emphasise that prosecution is not something that would be entered into lightly. It is, if you like, a last resort generally. The normal approach that we will be taking, and certainly for the first six months—it has been pointed out that we are talking about a six-month grace period—the normal approach would be that we would be working with people and we will be encouraging communities to interact with scientists and animal welfare groups and others to work out what is reasonable in their circumstances. So although there might be concern that this is not exact enough and very specific about what is and is not allowed, it actually provides the flexibility for that to be worked out and for people’s individual traditions and customs to be taken into account in that working through process.

**CHAIR:** Melissa, you had a comment.

**Miss George:** I have two comments. Firstly, in relation to community based compliance, as I stated before, the interpretation of the individual about what is considered to be cruel and inhumane is very different and if it is based on community based compliance you will be having people ringing up constantly saying, ‘There’s a black fella out there hunting. It needs to stop.’ That is an issue with interpretation. Going back to section 61 of the Aboriginal and Torres Strait Island Communities (Justice, Land and Other Matters) Act, there are already provisions to essentially stop the black market trade of turtle and dugong meat. It is once again a clause being developed to place an imposition on Indigenous communities. There are already provisions within the Nature Conservation Act which hold penalties for the sale of turtle and dugong meat and if you go to Torres Strait you will notice that there are notices in every community council and every store that state this so people are aware that it is a provision under the act. I think creating another layer of legislation that will do the same thing as something else does is ludicrous and from a traditional owner perspective, your section 211 right under the national Native Title Act is for communal and non-commercial use of resources. Aboriginal and Torres Strait Islander people have been saying for years if there is someone out there who is doing the wrong thing we want them prosecuted, we want their boat taken off them, we want them made an example out of. For too long, because people want this thing to happen, the finger gets constantly pointed back to Aboriginal and Torres Strait Islander people who are perceived to be doing the wrong thing where there are mechanisms that already exist within the statute, both at the state and Commonwealth level, which support the business of Aboriginal and Torres Strait Islander people and these need to be considered and recognised and implemented and not sort of chucked to the side and ignored as they generally are.

**CHAIR:** Could I get you to send the committee an email on what you have said about section 61 and the rules that already exist?

**Miss George:** I will. I am a bit surprised that the state is not aware of those considerations.

**CHAIR:** I am sure they are.

**Miss George:** And hasn't had a conversation with someone within the National Native Title Tribunal as a first instance to actually ask the question where is the impact and where is the positive and the negativity.

**CHAIR:** I am sure they are. I just wanted that brought to the notice of the committee members themselves. Unfortunately we have a lot of other duties as well as this act.

**Mr Ahmat:** Just going back on the cruelty act, this is another issue, but because we are a minority and a couple of people went up there, you know, and with the green influence about the way the slaughter of turtle and dugongs happened, it has blown out of all proportions. All my colleagues here today have said this has been handed down generation after generation after generation and I must congratulate the Torres Strait regional authority. Mr Kris and myself have had a discussion a couple of weeks ago. There is an intent now that there will be a combined meeting with Cape York and the Torres Strait regional people funded by the Commonwealth government, Mr Burke's office, to find new methods of addressing this inhumane way of killing turtle and dugong. I want to highlight to people here today, you talk about the animal cruelty act, can anybody tell me here today from the minister's department or any other department or the RSPCA—I do not have any qualms about any of the departments or the RSPCA—I just want to say when national park rangers lay the baits for the feral pigs in national parks, that pig has a bite of that bait and that pig walks around that national park in pain, in severe pain, for six to seven days before it dies. If we are going to address all the cruelty acts within this state and this country we have to look at all aspects not just on a minority group.

**Mr Piper:** I would just like to say that before the election we were aware of the election commitment. The position we put to the LNP was that section 8 must remain. Section 8 provided the opportunity to provide regulations or a code of conduct—for traditional owners to work up a code of conduct and to get to a point where there are regulations that are suitable. But ultimately our view was that those hard-earned recognitions that go within legislation which came about several years ago should remain. But section 8 has always allowed the preparation of regulations or a code of conduct that supports it. Section 8 is able to be fettered to a point that enables people to manage traditional hunting. We do not see that those kinds of options were actually considered in this, it was just the option of seemingly removing section 8. That is the point I would like to make.

**CHAIR:** Thank you for that. Could I just go back to you, Richie. Could you invite the committee up when you have that meeting with Tony Burke and the other groups? One or two members of the committee might like to go up and have a listen to that meeting.

**Mr Ahmat:** Yes, of course.

**CHAIR:** Terry, as you say, this was raised in the run up to the election. That has created some of the rush in relation to this legislation. It was promised in the election campaign that it would be implemented within that 100-day program. Unfortunately that has put a bit of pressure on the committee to work through this fairly quickly. Would anyone else like to make a comment?

**Mr Burns:** On the point Richie raised, this is so specific how can it not be discriminatory? If you are just talking about dugongs and turtles but the whole intention is animal care and protection, why aren't we talking about drum lines, shark nets and long lining and all that kind of stuff as well? I can't see how this can come in without being slammed for being discriminatory.

**Ms TRAD:** I did want to come back, Marguerite, to the issue about the definition of cruelty. I do appreciate what the department is trying to do here, but by the same token the level of ambiguity that exists around what is cruel also gives a lot of concern and fear to the people who have to now hunt and gather under these new amendments. It does give them cause for concern because it is so ambiguous. And it does seem to me that for something that is going to rely upon the will of collaboration, particularly amongst custodians, to actually make this a workable piece of legislation we have started off on a very bad foot. I understand that is not your call to make, but the government of the day, but I just wanted to make those remarks. I do appreciate what the department is trying to do by making it ambiguous but I also think the ambiguity is cause for concern and rightly so.

**CHAIR:** I will just clarify something, I think the act does cover everything, it does not only mention dugong and turtles. It is just that they are very difficult to kill and that is part of the process of why they have been highlighted. I think it would really cover everything, it does not only cover those two animals.

**Ms Buchanan:** I wanted to discuss the issue of enforcement by the RSPCA. As everyone is aware, the RSPCA is an enforcement agent under the Animal Care and Protection Act, but they may not be aware that we have a memorandum of understanding with—we had it with the old department, DEEDI—Biosecurity Queensland for enforcement in different areas. Currently DEEDI do enforce the Animal Care and Protection Act in many of the Aboriginal communities. However, the majority of Queenslanders are not necessarily aware of that. So even though we may not actually go up and enforce the legislation in communities and even though we go and do a lot of work in the Indigenous communities, we actually do

have a lot of negativity come towards us from the general community about what we are not doing. I see that that would continue still with this legislation because I do not think it is a case that any enforcement agency can go up and enforce this provision and do that because, as Marguerite has acknowledged, it is about really promoting voluntary compliance and working on education. But that is not how the general community perceives that it will be done.

**CHAIR:** That is a fair point.

**Mr COX:** Just on that point made, I think that again is missing the point. Why this bill was brought in and why this committee has been asked to look at it in further detail is the fact that it is not so people have to go up and check on what traditional owners are doing; they have proven themselves—the Aboriginal community and Torres Strait Island community—that they are looking after their own resource and they do not want undue pain put onto animals, but this is something that is brought in to say they should continue that but that there are going to be certain guidelines. I do not think that that point really needs to be made other than the fact that that is what this legislation is about so there does not have to be constant checking and the public are comfortable that once it is in place and when this is finalised that it does not need to be monitored every day as we do not monitor every other animal's welfare every day.

**Ms Buchanan:** That is certainly not my experience with the general public in that they don't expect that it is going to be monitored and enacted on. Even though we as an enforcement agency have an understanding that it is about working with communities and education, that is not the general understanding of the community in our experience.

**Ms TRAD:** I have just one final question. Given the level of education/consultation that needs to occur post legislation, are resources being found within the department or is a budget allocation being developed for it particularly?

**Ms Ybarlucca:** We have not worked through that amount of detail yet. We are finalising the plan. The aim is to finalise the plan and then work out how much it will cost and go from there.

**CHAIR:** Is there anyone on the phone who wants to ask a question?

**Mr Fourmile:** I wanted to ask a question in regard to greater public awareness, once this has been enforced or if it is going to be enforced or enacted, I should say. It affects cruelty. I know that cruelty affects everything. I know the LNP is wanting to do crocodile hunting and gaming for trophies here in North Queensland. It will affect that as well and, I suppose, the culling of kangaroos. It should affect that as well. There is a lot of culling industry that is going on now. People go out to shoot kangaroos. With this legislation, we should be made aware that it also affects a greater and wider public and not just the Aboriginal community. At the moment, it is aimed at us, but it will affect even the commercial fishermen. If the turtles and dugong get in their nets, it will attract a fine to them as well, because cruelty can be found there as well. Who is controlling that? Or will the onus just be on us blackfellas? The question is: how will that be monitored by the big brothers?

**CHAIR:** Seith, legislation does cover roo shooters and all those sorts of people, too. They cannot conduct their business in a cruel way, although I know it sounds a bit of an oxymoron to say that shooting a kangaroo to kill it will not be cruel. But they have to do it with reasonable care. It goes across all other industries as well.

**Miss George:** I have a comment on the question about costs. The explanatory notes say that the cost of the implementation of the bill will be minimised by a coordinated approach to implementation. One of the things that needs to be considered by the parliament and the department is that there are a number of existing processes that are already underway at a community level. Rather than ignoring those, which is what has happened in the development of these amendments to the bill, people need to be—not even necessarily consulted, because a lot of people are consulted to death. This is an issue that impacts people's livelihoods. The organisations that are dealing or supporting the interests of Aboriginal and Torres Strait Islander people from a land and sea management perspective need to be engaged, so that there is a coordinated approach to how this business takes place. There is a lot of money out there and a lot of work being done and it is being ignored through this whole process.

**CHAIR:** I do not think it is being ignored. We are trying to look at some of these things and we will try to pull a lot of that together. I am sure the departments will try to pull a lot of that stuff together as well. Thanks for that, Melissa. Anyone else?

Thank you, everyone, for participating. I think it has been a good session, particularly for the committee members to get a bit of an understanding of the feeling in the communities. Afternoon tea will be on the veranda if you would like to join us for a cup of coffee and have a bit of a general discussion as well. Thank you very much. Thank you, everyone, for attending and for coming quite a distance.

**Committee adjourned at 2.48 pm**