



Department of  
**Agriculture and Fisheries**

CTS 09908/22

10 June 2022

Mr Chris Whiting MP  
Chair  
State Development and Regional Industries Committee  
SDRIC@parliament.gld.gov.au

Dear Mr Whiting

Thank you for the opportunity for the Department of Agriculture and Fisheries to provide a public briefing to the State Development and Regional Industries Committee (the Committee) on Monday 23 May 2022 for the Animal Welfare and Protection Amendment Bill 2022.

Based on the public briefing transcript, the department took six questions on notice regarding:

1. the department's participation in RSPCA Queensland's decisions to prosecute and if there is a register of appointed inspectors under the *Animal Care and Protection Act 2001*
2. the business name of the knackery in the Scenic Rim area
3. the timeframe by which the activity agreement between the department and RSPCA Queensland would be updated
4. how the department is implementing the Queensland Audit Office recommendations
5. the proportion of funding provided to RSPCA Queensland versus their total operating costs
6. prosecution data from the last five to ten years.

Responses to these questions are enclosed with this letter.

If you require further information please contact Lisa Crowle, Acting Manager Policy (Animal Welfare) by phone on [REDACTED] or email [REDACTED].

Yours sincerely

A handwritten signature in blue ink, appearing to be 'R. Gee', with a horizontal line extending to the right.

**Robert Gee**  
**Director-General**  
**Department of Agriculture and Fisheries**

Enclosed: Responses to questions on notice

**Question on Notice**  
**No. 1**  
**Asked on 23 May 2022**

**MR CG WHITING MP – CHAIR** asked Malcolm Letts, Deputy Director-General and Chief Biosecurity Officer, and Lisa Crowle, Acting Manager Policy, Animal Welfare Program, Biosecurity Queensland, within the Department of Agriculture and Fisheries —

**QUESTION:**

**CHAIR:** The QAO recommended—and this relates to section 178—that the department participate in decisions to prosecute. Is there anything in the legislation where we go that far? It talks about oversight and giving information, but where in the legislation does it say that the department will be participating in the decision to prosecute?

The second last dot point under recommendation 2 of the QAO is that the department increases its oversight and participates with the RSPCA in decisions to prosecute. I am looking at whether that will be in the regulations or is set out in the legislative changes. Can we have more details on how the participation—that particular dot point—is happening?

One of the other things in QAO recommendation 2 is a register of current inspectors. Is that something that is currently done or is it once again to be done through legislation, regulation or administrative changes? So there is a register of people who are authorised for that particular purpose?

**MR MJ HART MP** - Is that [register] publicly available?

**ANSWER:**

Clause 33 of the Bill amends section 178 (Offences under Act are summary) to provide that only a person authorised by the chief executive may bring a prosecution under the Act. This provision provides oversight by the chief executive in decision making about whether a prosecution proceeds to Court and who can make that decision. The department is working with the RSPCA to put in place an agreed permanent process for managing and overseeing RSPCA Queensland prosecutions.

Regarding the department's involvement in RSPCA Queensland's decisions to prosecute, in August 2021, the department commenced participation in the RSPCA Queensland Prosecutions Panel. The Panel was established by RSPCA Queensland to determine whether a matter should proceed to prosecution. The department had two members on the panel which determined whether a matter should proceed to a prosecution.

The department understands that the RSPCA Queensland's Prosecution Panel has been disbanded. This has occurred for a number of reasons. In early 2022, RSPCA Queensland agreed to provide to the department's In-House Legal unit with prosecution briefs of evidence for review and advice to the department. Following the review of a brief, the department would provide the RSPCA Queensland with a view regarding prospects for success if the matter proceeded to a trial. The RSPCA Queensland only provided the department with two briefs. In

each case, the department considered that there was little prospect for a successful prosecution. The RSPCA has also recently employed a new lawyer who has significant experience in prosecutions. The new lawyer also assessed the two briefs of evidence and agreed with the department's view. The department notes that the RSPCA accepted the advice and has not progressed the two matters to prosecution.

The main reason the department did not support the matters proceeding to prosecution was because of the lack of a full brief of evidence. There were also considerations of whether it was in the public interest to prosecute the matters. The department has recently finished delivering training to the RSPCA inspectorate on how to prepare full briefs of evidence. This training will enhance the skills of the RSPCA inspectorate and ensure the quality of the briefs of evidence they present for prosecution will meet the required standards in the future. The department will work with the RSPCA to ensure they are not hindered from progressing appropriate matters to prosecution.

RSPCA inspectors are continuing to respond to animal welfare complaints and undertake investigations into breaches of the ACPA. Up until 22 May 2022, the RSPCA had responded to 18,183 complaints, given 84 animal welfare directions and issued 2,355 other enforcement outcomes which includes warning and advisory letters for the 2021-22 financial year. The RSPCA has progressed a total of 64 prosecutions with 51 active prosecutions currently before the Courts for the 2021/22 financial year

In relation to a register of current inspectors appointed under the Act, the department's Animal Welfare Program has reviewed and renewed the appointment process for all inspectors being appointed under the Act. This includes an audit of the register for appointment of inspectors and introduction of new processes for ensuring the register remains up to date. The Animal Welfare Program maintains the register of current appointees and has control over the identity card process. The register is not publicly available.

**Question on Notice**  
**No. 2**  
**Asked on 23 May 2022**

**MR JE MADDEN MP** asked Malcolm Letts, Deputy Director-General and Chief Biosecurity Officer, and Lisa Crowle, Acting Manager Policy, Animal Welfare Program, Biosecurity Queensland, within the Department of Agriculture and Fisheries —

**QUESTION:**

What is the business name of the knackery in the Scenic Rim area?

**ANSWER:**

The department contacted the knackery business by phone on 25 May 2022 and the business confirmed the business name is 'John Bowman' and is located in Rathdowney, Queensland.

## Question on Notice

No. 3

Asked on 23 May 2022

**MR CG WHITING MP – CHAIR** - asked Malcolm Letts, Deputy Director-General and Chief Biosecurity Officer, and Lisa Crowle, Acting Manager Policy, Animal Welfare Program, Biosecurity Queensland, within the Department of Agriculture and Fisheries —

### QUESTION:

We have talked about the importance of inspectors. We talked about changes in regulation, legislation, and administrative procedures. How are those changes reflected in the service agreement with the RSPCA's external inspectors? Is that reflected or updated in that external agreement?

Is the MOU an exclusive one barring other potential appointees?

You said that the MOU is being negotiated at the moment. Do we have a time frame for that? You said that is currently being undertaken. Is it a renegotiation?

Will it be publicly available?

### ANSWER:

RSPCA Queensland and the department operate under an Activity Agreement (the Agreement) which amongst other things defines the requirements of the two agencies in the area of enforcement of the provisions of the *Animal Care and Protection Act 2001* (ACPA). The Agreement is an exclusive Agreement between the department and RSPCA Queensland. The Agreement sets out various responsibilities of each of the parties including reporting obligations of RSPCA Queensland, a media policy, conditions of appointment for RSPCA Queensland inspectors, dealing with complaints about inspectors, seizures, the department's responsibilities, and joint responsibilities. The Agreement also contains a confidentiality clause, dispute resolution provisions and grounds for termination of the Agreement.

The current Agreement incorporates the department's funding to RSPCA Queensland for the financial years 1 July 2019 to 30 June 2020, 1 July 2020 to 30 June 2021 and 1 July 2021 to 30 June 2022. The Term of the Agreement is to 30 December 2022. The funding amount is \$500 000 per year.

Given many of the recommendations of the Queensland Audit Office Report on Regulating Animal Welfare and amendments contained in the Bill will impact on the content of the Agreement, the department considers that finalising a new Agreement will need to wait until the Bill is passed. However, work is underway in reviewing the content of the Agreement and the changes that will need to be made as a result of the Queensland Audit Office Report. It is expected a new Agreement will be in place towards the end of 2022. The Agreement is not usually published.

**Question on Notice**  
**No. 4.**  
**Asked on 23 May 2022**

**MR CG WHITING MP – CHAIR** - asked Malcolm Letts, Deputy Director-General and Chief Biosecurity Officer, and Lisa Crowle, Acting Manager Policy, Animal Welfare Program, Biosecurity Queensland, within the Department of Agriculture and Fisheries —

**QUESTION:**

You have said you are implementing the QAO recommendations in full. There will be a range of either regulatory changes, internal admin changes or legislative changes. Are you able to get a list of those recommendations and how each one is being addressed? I know that we have some things within the legislation that are being addressed, but for our clarification could we have a detailed list of how each one of those recommendations is being implemented and how and where they are being implemented?

**ANSWER:**

The Queensland Audit Office (QAO) *Report 6: 2021-22: Regulating animal welfare services* (Tabled 30 November 2021) made a total of five recommendations for the Department of Agriculture and Fisheries (the department) to improve its oversight of RSPCA Queensland in enforcing its powers under the *Animal Care and Protection Act 2001* (the Act).

The recommendations are aligned to four key themes:

- strengthening the legislative framework
- clarifying and strengthening the department's role
- managing performance
- good practice for all regulators.

The department is in the process of implementing all of the QAO's recommendations in full by administrative and legislative modes. Implementation status of each recommendation and sub-recommendation is detailed in Table 1.

**Table 1 – Implementation status of QAO recommendations by the Department of Agriculture and Fisheries**

QAO Recommendation	Status as at 31 May 2022
<i>Strengthening the legislative framework</i>	
<p><b>1.</b> In reviewing the Animal Care and Protection Act 2001 (the Act) and associated regulations, the QAO recommends the Department of Agriculture and Fisheries (the department) amends the legislation to:</p> <ul style="list-style-type: none"> <li>a) clarify the accountabilities and accreditation of inspectors</li> <li>b) have oversight of recommendations from inspectors for prosecutions and any related proposals for charge and plea negotiations between the defendants and prosecutors before presenting the case in the court</li> <li>c) provide it with access to all information that inspectors collect as part of their investigations and prosecutions</li> </ul>	<p>The Animal Care and Protection Amendment Bill 2022 (the Bill) was introduced to Queensland Parliament on 12 May 2022. The Bill proposes a package of amendments to the Act, including those that will implement QAO recommendations on strengthening the legislative framework as follows.</p> <ul style="list-style-type: none"> <li>a) The Bill clarifies the accountabilities and accreditation of inspectors by including new provisions in Chapter 6, part 1 of the Act to enable the chief executive to cancel or suspend the appointment of an inspector if the chief executive reasonably believes that the inspector is no longer suitable for appointment, or a condition of the appointment has not been complied with. A new division 1A will prescribe the way the process for cancellation and suspensions must be carried out.</li> </ul> <p>In addition to the tightening of inspector appointments, the Bill will allow the chief executive to require an inspector to satisfactorily complete prescribed training within the period prescribed under a regulation (Chapter 6, part 1, Division 3). Although the department already requires inspectors to complete training prior to appointment, mandating this requirement by legislation enhances the department’s administration of inspector appointments.</p> <ul style="list-style-type: none"> <li>b) The Bill provides that a person must seek approval from the chief executive to progress a prosecution under the Act. This will allow the chief executive oversight of recommendations from inspectors for prosecutions. The implementation of this provisions and how the department will have oversight of proposals for charge and plea negotiations between the defendants and prosecutors is being developed. Section 178 will provide that an inspector must be granted approval by the chief executive before starting proceedings against any person for an offence under the Act.</li> <li>c) Additionally, new section 215DA will enable the chief executive 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</li> </ul>



<b>QAO Recommendation</b>	<b>Status as at 31 May 2022</b>
<ul style="list-style-type: none"> <li>d) include requirements for managing conflicts of interest</li> <li>e) require it to approve a fee schedule of reasonable cost recovery and make it publicly available.</li> </ul>	<p>commenced under the Act. RSPCA Queensland must provide the information within 14 days of being asked. This amendment will facilitate greater oversight of the RSPCA Queensland's regulatory activities by the department and ensure investigations performed by the RSPCA Queensland on behalf of the State follow consistent procedures and use of powers.</p> <ul style="list-style-type: none"> <li>d) New section 121B (Conflicts of interest) requires an inspector to give notice to the chief executive of all interests, pecuniary or otherwise, that the inspector has or acquires that conflict, or could conflict, with the proper performance of the inspector's functions.</li> <li>e) The recommendation for the Act to require the approval of a publicly available fee schedule of reasonable cost recovery will be developed with RSPCA Queensland. Whether these fees will be statutory or non-statutory is yet to be determined.</li> </ul>
<b><i>Clarifying and strengthening the department's role</i></b>	
<p>2. The QAO recommends the department:</p> <ul style="list-style-type: none"> <li>a) establishes minimum performance and re-accreditation requirements for inspectors, and oversees inspectors' performance against the requirements</li> <li>b) maintains a register of current inspectors and implements controls over identity cards</li> <li>c) establishes minimum standards for the welfare of the majority of animal types of RSPCA Queensland regulates</li> </ul>	<p>The department has made a number of administrative improvements to clarify and strengthen its role and in turn its oversight of RSPCA Queensland's regulatory activities.</p> <ul style="list-style-type: none"> <li>a) The department has developed and embedded a new learning and development program for animal welfare inspectors. The new learning and development program was implemented on 31 March 2022 and establishes the minimum performance standards for officers appointed as an inspector under the Act. The program includes ten core modules for completion prior to appointment. Officers are also required to complete field work and be assessed by an assessor (an appropriately trained inspector in the department) before they may apply for appointment to the chief executive.</li> </ul> <p>The new learning and development program is aligned with national regulatory standards and sets a very high standard for animal welfare complaints management and investigations in Queensland. Over 100 new co-badged resources (i.e. templates, forms, standard operating procedures, checklists and work instructions) have been developed in the last 18 months to replace previous training material and ensure consistent application of powers across agencies.</p>

QAO Recommendation	Status as at 31 May 2022
<p>d) increases its oversight and support of RSPCA Queensland investigations by regularly reviewing the investigations and providing feedback for improvement</p> <p>e) increases its oversight, and participates with RSPCA Queensland in decisions to prosecute</p> <p>f) actively monitors the outcomes of complaints about RSPCA Queensland investigations and inspectors</p> <p>g) oversees how RSPCA Queensland is managing conflicts of interest relating to its enforcement function.</p>	<p>All officers appointed under the Act are also required to complete the department's Code of Conduct and Ethical Decision Making training annually.</p> <p>All new instruments of appointments include conditions that inspectors must report and monitor conflicts of interest and comply with the department's Code of Conduct. The instruments of appointment also contain suspension provisions if conditions of appointment have been breached.</p> <p>A new condition of appointment will be a requirement for all inspectors to undertake ongoing professional development and annual accreditation after 1 July 2022 to ensure their skills and knowledge are maintained.</p> <p>The department has also invested in training for inspectors delivered by external providers, including the Queensland Ombudsman on good decision making and managing unreasonable complainant conduct.</p> <p>b) The department has completed a review of the appointment process and now oversees all appointments under the Act. The department maintains a register of current appointees and maintains control over the identity card process. The register of appointments is not publicly available.</p> <p>c) The department will work with RSPCA Queensland to develop minimum standards for the welfare of the majority of animal types of RSPCA Queensland regulates (i.e., companion animals such as cats and dogs). As this will require changes to the Animal Care and Protection Regulation 2012 and significant consultation with stakeholders, these Codes of Practice will be developed over the next few years.</p> <p>d) The department has increased its oversight and support of RSPCA Queensland investigations by regularly reviewing investigations and providing feedback for improvement. A standardised quality assurance case review process is applied to investigations.</p>

QAO Recommendation	Status as at 31 May 2022
	<p>e) The department was participating in the RSPCA Queensland prosecutions panel to increase its oversight of RSPCA-led decisions to prosecute. This has now been replaced with the department's In-House Legal team reviewing prosecution briefs. Once the in-house legal team has reviewed a prosecution brief, the department provides an opinion to the RSPCA about the prospects of a successful prosecution.</p> <p>f) A standardised quality assurance case review process is applied to investigations which allows the department to actively monitor the outcomes of complaints about RSPCA Queensland investigations and inspectors.</p> <p>g) The Bill will introduce a new section 121B (Conflicts of interest) to require an inspector to give notice to the chief executive of all interests, pecuniary or otherwise, that the inspector has or acquires that conflict, or could conflict, with the proper performance of the inspector's functions. This amendment will allow the department to improve its oversight of how RSPCA Queensland is managing conflicts of interest relating to its enforcement function.</p>
<b><i>Managing performance</i></b>	
<p>3. The QAO recommends the department assigns responsibility and accountability for overseeing the engagement with RSPCA Queensland to a person with appropriate authority.</p>	<p>The department has appointed a Director, Animal Welfare Program and a Manager, Inspectorate to provide oversight of engagement with the RSPCA Queensland inspectorate. The department has also established a joint steering committee with RSPCA Queensland with representation from senior management from both agencies. The steering committee meets on a regular basis and maintains a standing agenda and work plan covering key matters of inspector learning and development and appointments, prosecutions and policy matters. The steering committee process has improved accountability of both agencies to deliver improvement processes, create greater collaboration and ensure emerging issues are addressed in a timely manner.</p> <p>The department is also in the process of developing a joint strategy and plan to capture its partnership with RSPCA Queensland. The strategy and plan will encompass:</p> <ul style="list-style-type: none"> <li>• clarification of the role of the department and RSPCA Queensland in animal welfare investigations</li> <li>• oversight of RSPCA Queensland inspectors and prosecutions</li> </ul>

QAO Recommendation	Status as at 31 May 2022
	<ul style="list-style-type: none"> <li>• establishment of minimum performance requirements for inspectors and enforcement activities</li> <li>• the use of financial reports to ensure accountability of funding provided by the department to RSPCA Queensland.</li> </ul>
<p>4. The QAO recommends the department partners with RSPCA Queensland to:</p> <p>a) develop effectiveness measures and use them to assess the enforcement activities against intended outcomes</p> <p>b) develop and use financial reports to ensure accountability for funds the department provides.</p>	<p>The department has worked with RSPCA Queensland to:</p> <p>a) Develop a quality assurance review process for animal welfare cases. The review process facilitates the assessment of investigations completed by inspectors against intended outcomes.</p> <p>b) Develop and implement a financial report process to enhance the accountability of RSPCA Queensland in using funding provided by the department.</p>
<b><i>Good practices for all regulators</i></b>	
<p>5. The QAO recommends that all public sector regulators and oversight bodies self-assess against better practices in Appendix C [of the QAO report] and, where necessary, implement changes to enhance their regulatory performance.</p>	<p>The department's learning and development program (implemented 31 March 2022) encompasses the elements outlined in Appendix C of the QAO report. The effectiveness measures review adherence to the standards set in the learning and development program. The department will be introducing an ongoing professional development and annual accreditation program for all inspectors in the second half of 2022.</p>

**Question on Notice**  
**No. 5**  
**Asked on 23 May 2022**

**MR JE MADDEN MP** - asked Malcolm Letts, Deputy Director-General and Chief Biosecurity Officer, and Lisa Crowle, Acting Manager Policy, Animal Welfare Program, Biosecurity Queensland, within the Department of Agriculture and Fisheries —

**QUESTION:**

You mentioned funding provided by the state government to the RSPCA. Did I hear you correctly that funding is principally for capital works, not operating expenses?

Just focusing on operating expenditure, what percentage of their expenditure is government provided and what is through fundraising?

**ANSWER:**

The department provides a grant of \$500 000 per year as a contribution to operational activities of the inspectorate to the RSPCA. An outline of the RSPCA Queensland budget is available in the RSPCA Qld Annual Reports published at: <https://www.rspcaqld.org.au/who-we-are/annual-report>.

In April 2020, the RSPCA was granted \$0.91 million which was a conversion of capital funding to operational funding to assist during the early response to the COVID-19 pandemic. This was a ‘one off’ grant.

**Question on Notice**  
**No. 6**  
**Asked on 23 May 2022**

**MR JJ MCDONALD MP** - asked Malcolm Letts, Deputy Director-General and Chief Biosecurity Officer, and Lisa Crowle, Acting Manager Policy, Animal Welfare Program, Biosecurity Queensland, within the Department of Agriculture and Fisheries —

**QUESTION:**

I wonder if you could put together a spreadsheet of prosecution data over the last five or 10 years, because I am really quite concerned about there being legislation in place but it being very challenging to take action on.

**MR MJ HART MP** - How many have been successful?

**ANSWER:**

The department does not have information on the number of successful and unsuccessful prosecutions over the last five to ten years without asking the RSPCA. The department does not have access to the RSPCA database. Providing this level of detail and information would require the permission of the RSPCA as well as significant resources. Some details about the number of complaints, investigations and prosecutions can be found in the RSPCA Qld Annual Reports (<https://www.rspcaql.org.au/who-we-are/annual-report>).

However, the department receives regular reports from the RSPCA about the number of prosecutions that are before the courts. The number of prosecutions undertaken by the RSPCA Queensland has averaged around 250 matters per year in recent years. As of 22 May 2022 the RSPCA reported that they had progressed a total of 64 prosecutions with 51 active prosecutions currently before the Courts for the 2021-22 financial year. As part of the new learning and development program, the department has been encouraging the RSPCA inspectorate to consider options other than prosecutions. These options include education, seizing animals or giving an animal welfare direction.

The department will work with the RSPCA to ensure they are not hindered from progressing appropriate matters to prosecution. In the interim, RSPCA inspectors are continuing to respond to animal welfare complaints and undertake investigations into breaches of the ACPA. Up until 22 May 2022, the RSPCA had responded to 18,183 complaints, given 84 animal welfare directions and issued 2,355 other enforcement outcomes which includes warning and advisory letters for the 2021/22 financial year.

The new learning and development program has delivered training in good decision making and most of the RSPCA inspectors have completed training in the Public Service Code of Conduct. This training is now compulsory and has enhanced the RSPCA inspector's knowledge and skills in relation to making appropriate and proportionate decisions regarding investigations.

Since 2020, the department has prosecuted 15 matters. Apart from two matters where the charges were withdrawn, all other matters proceeded with a verdict of guilty. The department publishes information about its animal welfare incidents and outcomes at: <https://www.daf.qld.gov.au/business-priorities/biosecurity/animal-biosecurity-welfare/welfare-ethics/animal-welfare-complaints-data-overview>.