## Inquiry into the Animal Care and Protection Amendment Bill 2022

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**Submitted by:** Animal Liberation Queensland

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**Submitter Comments:**

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# *Animal Care and Protection Amendment Bill 2022*

## Submission on behalf of Animal Liberation Queensland

Dear Committee

Thank you for the opportunity to provide input on the review of the *Animal Care and Protection Amendment Bill 2022 (Qld)*.

Animal Liberation Queensland (ALQ) is an independent animal advocacy organisation with an interest in the protection of all animals. ALQ is a not-for-profit organisation founded in 1979 in the state of Queensland and is a registered ACNC charity. ALQ acts on a broad range of animal protection issues and seeks to represent the interests of all animals. ALQ is well known for the investigation that exposed the cruel and illegal practice of live baiting in the greyhound racing industry, as seen on Four Corners in 2015. More information is available at **www.alq.org.au**.

Comments in this submission should not be taken as endorsement of any industry that breeds, uses or kills animals in any way against the animals' best interests, or as an endorsement of any practices that are currently legal.

# Responses to specific amendments

## (3) What is an animal

We welcome the inclusion of Cephalopoda in the Act rather than Regulations. However, without including any Malacostraca, the definition is weaker than other jurisdictions including ACT, NSW, NT and Victoria. Scientific evidence is now clear that crabs, crayfish, lobsters, prawns feel pain and should be protected by animal welfare legislation. We advocate for as broad and inclusive definition- as possible, and recommend application of the precautionary principle where it is unclear if any animal is sentient or has capability to suffer. At a minimum, we recommend that Queensland's definition of animal includes Malacostracans that are intended for human consumption to bring our legislation in line with other states and territories.

## (4) Making codes of practice

The insertion of “that are based on good practice and scientific knowledge” is an improvement to the Act, however, the Act could be strengthened much more by providing that codes of practice are based on contemporary scientific knowledge, in line with community expectations, and importantly that they are consistent with the Act (particularly s17 and s18), rather than providing exceptions - or defenses for committing what would otherwise be acts of cruelty.

## (5) Breach of duty of care

We welcome the new aggravated breach of duty of care provision.

This amendment is necessary for cases of extreme neglect such as that which we saw at a property near Toowoomba in 2020. It is estimated that more than 30 horses were left to starve to death, and a further 8 found emaciated - some severely.

Further details available at: https://alq.org.au/horse-cruelty-toowoomba

We recommend that the aggravated breach of duty of care (17(2)(a)) be expanded or a new section added with a similar penalty to apply to anyone using animals for commercial purposes - for example puppy farmers, rodeo operators, greyhound/horse trainers, intensive farms, slaughterhouses, livestock transport. These types of operations should have a higher obligation to provide appropriate care to animals and duty to be aware of and adhere to relevant sections of the Act and any relevant regulations.

## (6) Unreasonable abandonment or release

We welcome the unreasonable abandonment amendment.

## (7) Meaning of prohibited event

From the explanatory notes, it is clear that the purpose for omitting s20(2) is to “clarify that rodeos are not a prohibited event”. Instead of listening to the unanimous recommendations from all leading animal protection organisations and banning calf roping, the Bill seeks to clarify that rodeos are not prohibited events.

There is strong evidence that the calf roping (rope and tie) rodeo event should be banned as a prohibited event under the Act. There does not appear to be any strong justification for maintaining calf roping. This view is confirmed by the recently published journal article, *The legality of calf roping in Australia*[1] (Stonebridge, UQ Law Journal, 2022) which found that "the harm caused is not proportionate to the benefits and, as a result, that all Australian jurisdictions should explicitly prohibit the practice".

**The case for banning calf roping**

- **Scientific evidence**: Two recent Australian scientific studies (1. Sinclair et al, 2016[2] and 2. Rizzuto et al, 2020[3]) support the repeated observations that this event causes significant stress to vulnerable calves. Additionally, the recently published journal article, *The legality of calf roping in Australia* (Stonebridge, UQ Law Journal, 2022[4]) which found that "the harm caused is not proportionate to the benefits and, as a result, that all Australian jurisdictions should explicitly prohibit the practice".

- **Community expectation**: In 2019, over 60 000 people signed ALQ's petition asking for a ban on calf roping in Queensland. Additionally, tens of thousands of Queenslanders have emailed their state MPs and the Minister over the past couple of years. Representative sampling of Queenslanders conducted independently with two samples of 1000 respondents weighted to be representative of the Queensland population in 2019 showed a clear majority oppose the event. Less than 15% of Queenslanders surveyed were in favour of calf roping.

- **Observational evidence**: The RSPCA notes that behavioural indicators of stress and pain during the rope and tie include the calf showing 'white eye', bellowing, tongue lolling and excessive salivation. The RSPCA also says risks of injury include: damage to the windpipe and soft tissues of the neck due to being suddenly jerked in a different direction to which the calf is running; bruising and broken ribs as the animal is forced to the ground; choking from being dragged along the ground.[5]

  ALQ has been documenting Queensland rodeos and receiving veterinary advice on these issues for several years now. It is common to see behavioural indicators of stress and pain. We can provide numerous examples of mis-ropings, rough handling, potential and confirmed injuries, signs of stress and other animal welfare issues through our videos.

  **For examples of calf roping at Queensland rodeos see:**
  **https://vimeo.com/505121065**

- **Mis-ropings:** Mis-ropings are common in the rope and tie event (estimated to be between 10-20% of calf roping runs). Instead of their necks, calves are commonly roped around their front legs causing tripping, and their back legs. We have also documented mis-ropings around the eyes which are potentially damaging to vision, along with

[1] https://www.mdpi.com/2076-2615/12/9/1071/
[2] https://www.mdpi.com/2076-2615/6/5/30/htm
[3] https://www.mdpi.com/2076-2615/10/1/113
[4] https://www.mdpi.com/2076-2615/12/9/1071/
[5] https://kb.rspca.org.au/knowledge-base/what-are-the-animal-welfare-issues-with-rodeos/

mis-ropings of the tail and the nose. Mis-ropings place the calves at even further risk of physical injury and will always occur because it is impossible to mitigate against human error during competition.

*Photo: Mis-roping during calf roping event at The Gympie Show Rodeo, 15 May 2021*

- **Industry's lack of scientific evidence to support claims of improvement:** The industry has failed to argue convincingly for retention of the event or to mitigate stress or risk of injury suffered by calves. The rodeo industry has claimed that newer roping devices such as the Ropersmate device reduce the physical trauma to running calves roped around the neck and brought to a sudden halt. However, these claims have never been independently scientifically tested on calves, so the suggestion that these devices reduce roping impact significantly is completely speculative.

  Calf roping has fewer competitors than most events held at full program rodeos. It is not even included in the programs of many rodeos. A prohibition on calf roping would only have an impact upon a relatively small number of participants who typically would compete in other rodeo events in any case.

- **Prohibitions in other states:** Calf roping has been prohibited in Victoria since 1986 and in South Australia since 2007 through a mandated minimum body weight of 200kg for cattle used in rodeos, as well as rodeos being prohibited in the ACT due to the animal cruelty involved.

## (9) Docking dog's tail

We welcome the amendments to prevent docking a dog's tail unless it is in the interests of the dog's welfare. We recommend that the penalty for docking a dog's tail be increased to at least 300 penalty units.

## (10) Spaying & pregnancy testing for cattle

Surgical procedures such as spaying of cattle should only be performed by a veterinary surgeon using appropriate pain relief and post-surgery monitoring. The Willis dropped ovary technique is an invasive surgery that involves entering through the vagina, piercing through and cutting the ovaries away from their attachments in the abdomen.

Appropriate pain relief must be mandated for spaying of cattle.

If the accreditation program proceeds, there must be appropriate penalties and monitoring in place for non-compliance. It must not be solely up to the accreditation operators to monitor for compliance.

Additional amendments should be added to ensure that accreditation schemes are in line with the purpose of the Act.

We also strongly urge that a mandatory review of this section of the Act of 2 years, or when non-surgical alternatives become available, whichever comes sooner.

We fail to see how this amendment will bring about an improvement in animal welfare, and we put to the committee that this inclusion has been added as more of a commercial benefit for graziers, which is not aligned with the purpose of the Act.

## (12) Restriction on supplying debarked dog

We welcome the restrictions on debarking and supplying of debarked dogs. However, we recommend the Committee liaise closely with, and listen to advice from rescue organisations, including small dog rescues, council pounds/shelters, along with larger organisations such as RSPCA Queensland and Animal Welfare League Qld to ensure the obligations are not overly onerous on their operations. If penalties are too high and restrictions too onerous, it may result in shelters being unwilling or unable to take on debarked dogs, or unable to supply them to new guardians which may result in these dogs being euthanised or spending their lives in shelters.

We recommend revising some of the penalties for not keeping a certificate or supplying a debarked dog without certificate to ensure they are appropriate and do not exceed the penalty for performing the debarking procedure on the dog.

## (13) Obligation to exercise closely confined dogs

While the removal of this obligation initially appears unfavourable, we understand that the obligations under the current section 17 of the Act already cover appropriate care and exercise and enable prosecution where care is inadequate.

## (13) Transporting dogs

We welcome the change to restrict transport of a dog in a tray or trailer.

However, there is no animal welfare justification for an exception for dogs that “assist in the movement of livestock”. It is dangerous to transport a dog that is not properly secured, no matter what the dog is being used for. The use of the dog does not change the likelihood of an accident, nor the dog’s ability to suffer.

We also question whether the definition is strong enough. For example, a dog may be “secured” by a lead and collar around the neck. But if there is a movement that causes the dog to fall over or fall off the ute, the pressure around the neck could cause injury or death. We recommend clear guidance be provided to make it clear what is considered “secured”.

## (14) Possession or use of prohibited devices

We welcome the ban on prong collars. However, we recommend removal of the clause “unless the person has a reasonable excuse”. If prong collars are to be banned, there should be no reasonable excuse for their use. Perhaps there may be a reasonable excuse for possession in certain circumstances (such as authorities that have seized them).

## (14) Possession of prohibited nets

This new section adds a welcome inclusion into the Act but there appears to be no update to the regulations and therefore this section is largely ineffective. We recommend that the regulations be updated at the same time as part of this Bill to outlaw nets and traps that are extremely cruel - for example “Opera House” yabby traps, foothold or steel-jaw traps (although these may be better included as prohibited traps under section 42(1)(b)) as well as fruit netting that entangles wildlife.

For fruit netting, we call for the prohibition on the sale and use of fruit tree netting with a weave/apertures over 5mm x 5mm (individual strands must be 150 microns). Wildlife safe netting has a weave of 5mm x 5mm or less fully stretched or taut. Hailguard or elongated weave also meets wildlife safe requirements. We note that a prohibition on netting on commercial fruit orchards would require further extensive consultation with industry as well as consideration of financial impact/assistance and phase in period. Therefore, for the purposes of this Bill, the netting prohibitions should apply to “backyard” or domestic environments. Commercial orchards with an ABN commercial licence for growing and selling fruit could be exempt. The great advantage of wildlife safe netting (5mm x 5mm or less) is that wildlife are able to crawl across the netting without becoming entangled in it. From wildlife rescuers in Victoria, we understand that thousands of animals (and wildlife rescues) are able to be saved using this simple method of entanglement and death/injury prevention. The impost on the volunteer wildlife rescue sector is thereby greatly reduced. Finally overall risks and distress to public by wildlife injury are also reduced. Here in southeast Queensland, we understand from wildlife rescue organisations wildlife netting entanglements and rescues (especially of native flying foxes) number in the many hundreds in Brisbane alone each year.

## (14) Firing or blistering on horses and dogs

We welcome this amendment.

## (15) Euthanasing sick or injured animals by veterinary surgeons

We welcome this amendment and agree that the measures outlined in the amendment are appropriate to safeguard from euthanasing animals where an owner could be contactable or when euthanasia is not the most appropriate action for the welfare of the animal.

We would expect that vets would use their discretion appropriately as different situations may call for slightly different responses. For example, a cow that has been hit by a car and broken his leg, and is lying by the side of the road, may have little to no chance of treatment, in which case euthanasia will likely be the only humane option. However, if the same happened for a dog, especially if the dog was likely a companion animal whose guardian may be prepared to pay the expense of surgery, then the vet should keep the animal comfortable through pain relief and allow a longer timeframe (perhaps 24 hours if 'owner' is initially uncontactable), before deciding whether to euthanise the animal.

## (16) Feral or pest animals

We welcome the ban on "a poison that includes the ingredients carbon disulfide and phosphorus" as well as the inclusion of prohibited traps or spurs. We would recommend that prohibited traps and spurs be expanded to include traps that have very poor animal welfare outcomes such as "Opera House" yabby traps, foothold or steel-jaw traps.

We also recommend that prohibited poisons be expanded to include any poison that results in extreme suffering and cruelty to animals, including but not limited to 1080 poison.

Baiting with 1080 poison (Sodium fluoroacetate) deserves specific mention given the associated harm to animals and the level of concern in the community. This poison is inhumane, indiscriminate, and unacceptable to many Queenslanders.

A paper by M Sherley,[6] an RSPCA Australia scientist, concludes that 1080 can not be considered humane:

> *Mason and Littin (2003) argue that the most desirable poisons have a minimum number of symptoms before rapid loss of consciousness and death, with no lasting ill effects on the survivors. Sodium fluoroacetate does not clearly meet these criteria and it is inappropriate to claim that 1080 is a humane poison based upon prior reviews that fail to consider wider welfare impacts and do not use a consistent framework for assessing humaneness.*

1080 is indiscriminate in that it impacts a large number of species, including native animals who may ingest the poison either directly or indirectly (through consuming a contaminated carcass).[7] It also kills an increasing number of companion animals. Obviously, this is also extremely distressing for those who considered the victim as a part of their family. Numerous recent media reports[8] have documented examples of this in Queensland.

[6] http://ban1080.org.au/wp-content/uploads/2019/11/Sherley-Is-sodium-fluoroacetate-1080-a-humane-poison.pdf
[7] https://www.publish.csiro.au/WR/WR9920629
[8] Several media reports:
https://www.couriermail.com.au/news/queensland/several-more-dogs-are-believed-to-have-died-from-suspected-1080-poisoning-in-recent-weeks/news-story/6eee52b92f117900cbc5e5038c6e818b
https://www.couriermail.com.au/news/queensland/queenslanders-urged-to-have-say-on-use-of-1080-animal-bait-before-animal-welfare-review-deadline/news-story/0c4e27a5c3044b2beb84906fd6baf3b6
https://www.couriermail.com.au/news/queensland/grieving-pet-owners-want-controversial-baiting-program-banned/news-story/78f80f5e461c22234c1e23a978317369

## (22) Obligations relating to livestock slaughter facilities

We welcome the implementation of Martin Inquiry recommendations to mandate CCTV in slaughterhouses. However, we note that this amendment is currently limited to horses (or other species that may be added later by regulation). There is no sound animal welfare reason why horses should be included but other species such as bovines, pigs, camels, sheep, goats, chickens and other species should be excluded. They all have the ability to suffer and are all subject to potential mistreatment at slaughterhouses. We note that many slaughterhouses have already (voluntarily) started using CCTV, so it should not be a major burden to mandate CCTV in all slaughterhouses.

Currently, there is no mandatory monitoring of CCTV footage outlined in the Act. Without any monitoring, CCTV is mostly useless and will mean that CCTV would only be accessed should a serious complaint be lodged with the the Department of Agriculture (DAF). Such a complaint would require a disgruntled or concerned employee to complain, or an activist to trespass and put their personal safety at risk to expose animal cruelty. Instead, a proactive monitoring system should be put in place - this could include use of artificial intelligence or/and random spot checks to ensure compliance with all relevant parts of the Act at the slaughterhouse. It should not be left to activists or independent journalists to obtain footage and review this to uncover abuses. If proper checks were in place to start with, we would never have needed the Martin Inquiry.

We also recommend that footage should be stored for longer than 30 days - we recommend 60 days at an absolute minimum. Ideally a cloud based system that allows direct access by inspectors should be put in place.

We also point out the potentially confusing language and definitions under 93S. It proposes:

> 93S Definitions for chapter
> In this chapter—
> *livestock* includes alpacas, buffalo, camels, deer,
> emus, goats, ostriches, pigs or poultry.
> *livestock slaughter facility* means a facility used
> to slaughter—
> (a) horses; or
> (b) other livestock of a kind or class prescribed by regulation.

One would assume that livestock also includes horses, cattle/bovines and sheep, however this is not specified in the definition. Some sections of the Act refer to ‘livestock’ as per above definition, yet 93Z refers only to ‘horses’. This makes it difficult if other livestock species were to be prescribed by regulation at a later date, as 93Z would not apply to any additional species under regulation.

93Z places various responsibilities on the ‘owner’ of the facility. The committee should consider whether the wording and definition of owner is sufficient where an owner may not be actively involved, or where an owner is several people or part of a multinational company where the main owners may be located overseas, and therefore extremely difficult to prosecute.

**(23) When inspector ceases to hold office & (26) Return of identity card**

We note a missing apostrophe at 118B (1) - “cancelling an inspectors appointment” should be “cancelling an inspector’s appointment”.

These amendments appear to be sensible but we urge the committee to liaise closely with RSPCA Qld inspectors, prosecutors and management to ensure all changes are appropriate.

## (26) Training and reporting obligations

We welcome increased training obligations for inspectors, however the penalty appears inappropriate. A better provision would require that, in the event that training lapses, the chief executive may require a commitment that this will be rectified within a certain number of days, and if not, then the cancellation or suspension of appointment sections should apply.

We also welcome the conflict of interest amendment.

## (27) Power of entry

We welcome the increased power of entry to slaughterhouses, but we note that this is only when horses are present. It is vital that inspectors have unimpeded access to all commercial slaughter facilities at any time of operation, regardless of the species being slaughtered. Without oversight, inspectors are relying on permission from the owner or a complaint. These animals currently have no independent oversight. Employees are often pushed to maintain fast production lines and cut corners when it comes to animal welfare. Employees that speak out may be penalised. Therefore, without independent and unannounced inspections of slaughterhouses, there is no monitoring and the slaughterhouses are effectively given the green light to do as they like in violation of animal welfare laws if they choose, with little to no risk of penalty.

Under the current proposed amendments it is also unclear how an inspector would know that horses are on site if the owner had not fulfilled the notification requirements outlined in the Act. If the Act is not to be amended to include all species, then it should at least be amended to allow access when an inspector “suspects a horse is present”.

## (28) Limited entry power to provide relief to animal

We welcome this amendment.

## (29) Power to give animal welfare direction

We welcome this amendment. However we hope that this will not reduce prosecutions for violations of codes - rather it will be used as an additional tool where prosecution is not the most appropriate course of action for minor code violations.

## (32) Recognising offences under interstate laws

We welcome this amendment. This is an important change. However, it is vital that advice from lawyers and prosecutors is considered to ensure that interstate prohibition orders can be upheld here in Queensland. It is important that the wording of the Act is broad enough to include all relevant orders made interstate, even if the legislation the order was given under varies from state to state.

We also wish to raise the question as to how Queensland will be notified of interstate orders and how these will be upheld effectively.

It is also important to ensure appropriate measures are in place nationally for prohibitions given in Queensland to be applied to other states and territories. While this may be outside the scope of Queensland's legislation, there should be a national register and national agreement that all states and territories will uphold bans and prohibitions from other states.

## (33) Offences under Act are summary

We strongly object to the new subsection (3) which says:

> (3) A prosecution may only be started by a person authorised by the chief executive to bring the prosecution.

This is a backward step for animal welfare and removes any possibility of private prosecution or even the ability of RSPCA Qld to independently decide to prosecute without permission from the Department (chief executive). This concentrates all power to prosecute in one person. Notably, the person who authorises prosecution also has responsibility for the viability and growth of animal agriculture industries, which may present a conflict of interest in some cases. Instead, s178 (3) should be amended to explicitly allow private prosecution of animal cruelty offences, as well as by Queensland Police and RSPCA Qld.

s178 (b) should also be amended to increase the statute of limitation of animal cruelty offences (currently 12 months, or 2 years in some circumstances). We note that even relatively simple animal cruelty investigations currently take the Department close to 12 months, so the current statute of limitation is completely unworkable. If someone commits a horrendous act of cruelty, but it is not discovered until 2 years later, they cannot be prosecuted under the Act.

## (35) Disclosure requirement

While we recognise the importance of transparency and disclosure of animal welfare investigations, this section does raise potential privacy concerns. This amendment will also likely open up all cruelty complaints and "all documents and information relating to the investigation" to become subject to Right to Information requests. There may be unintended consequences to those who wish to anonymously report animal cruelty to RSPCA Qld.

The ability for employees or neighbours who may live in fear of retribution to report animal cruelty anonymously is vital for animal welfare - particularly in cases where there is no other monitoring regime in place.

### Racing Integrity Act amendments

We welcome the changes to the Racing Integrity Act to give greater powers to the Queensland Racing Integrity Commission (QRIC) over retired racehorses that are still in possession of racing participants.

The Martin Inquiry recommended that authorities such as QRIC, DAF and Racing Queensland provide greater transparency regarding retirement of slaughter of ex-racehorses. This requirement should be mandated as part of this Act.

## Additional comments

### Purpose of the Act and recognition of animal sentience

The use of terms like "balance" and "unjustifiable, unnecessary or unreasonable" in the current object of the *Animal Care and Protection Act 2001* (ACPA) greatly weakens the intent of the Act and results in poorer animal welfare outcomes. As, for example, evidenced by the extent and nature of intensive farming throughout the state, when animal welfare is "balanced" against "livelihood" or maximising profit, profit inevitably wins.

The Act should recognise the sentience of non-human animals and the community's obligation to protect the basic requirements of animal welfare. At an absolute minimum the standards should align with and protect at least the 'Five Freedoms' – freedom from hunger and thirst; freedom from discomfort; freedom from pain, injury and disease; freedom to express normal behaviours; and freedom from fear and distress. However, animal welfare has advanced significantly since these Five Freedoms were initially established in 1979[9]. Good animal welfare is now widely understood to be about more than preventing or treating injury and avoiding "unnecessary" distress. It is about taking into account the mental state of the animal, providing positive experiences and ensuring a life worth living. To achieve this, we are strongly in favour of the ACPA setting out minimum standards in line with the Five Domains: those of nutrition, environment, health, behaviour, and mental state. For further information refer to: https://ncbi.nlm.nih.gov/pmc/articles/PMC4810049/

Recognition of animal sentience should be included in the purpose of the ACPA. The *Animal Welfare Act 1992* in the ACT (s4A)[10] provides a good starting point for consideration for objects or purpose of the ACPA:

> *Objects of Act*
> *(1) The main objects of this Act are to recognise that—*
> *(a) animals are sentient beings that are able to subjectively feel and perceive the world around them; and*
> *(b) animals have intrinsic value and deserve to be treated with compassion and have a quality of life that reflects their intrinsic value; and*
> *(c) people have a duty to care for the physical and mental welfare of animals.*

[9] https://kb.rspca.org.au/knowledge-base/what-are-the-five-freedoms-of-animal-welfare/
[10] http://classic.austlii.edu.au/au/legis/act/consol_act/awa1992128/s4a.html

*(2) This is to be achieved particularly by—*
*(a) promoting and protecting the welfare of animals; and*
*(b) providing for the proper and humane care, management and treatment of animals; and*
*(c) deterring and preventing animal cruelty and the abuse and neglect of animals; and*
*(d) enforcing laws about the matters mentioned in paragraphs (a), (b) and (c).*

There are other precedents for recognising sentience in other jurisdictions. Most recently, the United Kingdom government introduced a bill to formally recognise animal sentience in domestic law[11]. Importantly, the UK legislation is designed for animal welfare to be properly considered when new laws are made.

Currently the Queensland government is required to consider the cost of legislation on business and the community (with a focus on financial impacts) through 'regulatory impact analysis' and 'regulatory impact statements' as per the Queensland Government Guide to Better Regulation[12]. Under the *Human Rights Act 2019*, the government is also required to consider the impact of any new laws on any of the fundamental human rights outlined in the Act[13]. Similarly, the *Animal Care and Protection Act* should require the government to consider the impact on animals of any new laws and an obligation to address shortfalls in existing legislation and regulations. The ACPA should ensure that consideration of the impact on animals is given appropriate priority for any significant policy decisions, new or amended regulations and new or amended laws.

We would also like to see that the ACPA adopts the precautionary principle wherever science is not conclusive. The ACPA and associated legislation should err on the side of caution and assume a level of sentience and ability to suffer wherever evidence is inconclusive.

Unfortunately these recommendations that were made during consultation by many stakeholders appear to have been disregarded when drafting this Bill.

## Independent Office of Animal Protection

Currently, the ACPA and oversight of animal welfare issues, as well as new laws and regulations, falls into the portfolio of the Minister for Agricultural Industry Development and Fisheries and Minister for Rural Communities. Enforcement of animal welfare laws is the responsibility of the Department of Agriculture and Fisheries.

Direct conflicts of interest may arise where the department responsible for the international reputation, economic sustainability, and commercial growth of an industry is tasked with policing it and protecting the welfare of the animals used and killed for commercial purposes.

The ACPA should enable the establishment of an Independent Office of Animal Protection (IOAP). The IOAP may alternatively be referred to as an Independent Office of Animal Welfare or Indepedent Animal Welfare Authority. Such an office would address the Department of Agriculture and Fisheries' current conflict of interest in regulating and enforcing animal-use industries while fostering those industries' economic productivity.

[11] https://www.gov.uk/government/news/animals-to-be-formally-recognised-as-sentient-beings-in-domestic-law
[12] https://www.treasury.qld.gov.au/resource/queensland-government-guide-better-regulation/
[13] https://www.legalaid.qld.gov.au/Find-legal-information/Personal-rights-and-safety/Human-Rights-Act-2019

There is a strong argument for the creation of an IOAP for overseeing animal welfare laws and regulations, enforcement, providing independent oversight, and preparing advice for the government.

Leadership, oversight and enforcement of animal welfare laws should be clearly separated from both the ministerial portfolio of the Minister for Agricultural Industry Development and Fisheries and Minister for Rural Communities as well as the Department of Agriculture and Fisheries.

The Queensland Government is already familiar with the arguments around separation of powers and removing potential conflicts of interest. For example, the government understands that the Department of Resources should not be in charge of final environmental approvals for mining applications. The government was also quick to act on the recommendations from the Macsporran Inquiry in 2015 which followed the public outcry from live baiting in the greyhound racing industry. The government legislated to create the Queensland Racing Integrity Commission (QRIC) and split the racing portfolio and the integrity functions (including animal welfare) between separate Ministerial portfolios. While we are not satisfied that the racing industry has adequately addressed all integrity and animal welfare issues, the new governance arrangements that split the commercial and integrity functions are undoubtedly a step in the right direction and remove much of that conflict of interest.[14]

## Minimum animal welfare standards should not be overridden or weakened by regulation

The ACPA should provide a minimum baseline of animal welfare that can not be exempted, overridden or weakened. As described above, the ACPA should protect minimum standards in line with, at a minimum, the Five Freedoms or more ideally, the Five Domains.

Regulations such as Codes or Standards and Guidelines should *not* allow animal cruelty that would otherwise be prohibited under the ACPA. Exemptions under section 41 should be removed. Various other offence exemptions listed in the Act under Division 3 also need to be re-examined, especially s42 (“Feral or pest animals”), s44 (“Fishing using certain live bait”), s46 (“Use of fishing apparatus under shark fishing contract”). An animal’s ability to suffer does not vary according to the way they are classified or the exception category they fall under.

The relationship between ACPA and other Acts also needs to be re-examined. ACPA should not be overridden by other legislation including, but not limited to, the *Racing Act 2002*, the *Fisheries Act 1994* or the *Exhibited Animals Act 2015*.

Use of phrases such as “unjustifiable”, “unnecessary”, “unreasonable” in reference to pain and suffering of animals should be removed from both the ACPA and the relevant regulations. These phrases severely weaken the application of the Act and the associated Codes.

Many regulations provide unacceptable standards that are out of step with community expectation and animal welfare science. Regulations including Standards and Guidelines and Codes of Practice need to be revised to bring them in line with minimum standards. Currently, regulations

[14] However, in the case of the racing industry, a conflict still exists in that one of the main purposes of Racing Integrity Act 2016 that created QRIC is to “to maintain public confidence in the racing of animals in Queensland for which betting is lawful” which can at time be at odds to the best interests of the animals involved.

are allowed to override the ACPA and excuse what would otherwise be considered animal cruelty. Regulations should only provide guidance, not override minimum standards. For example, some acts that would be illegal if done to a cat or dog (companion animal), are allowed to be performed on pigs, chickens, cows and other farmed animals if carried out in accordance with regulations.[15]

Additionally, we are concerned that some regulations that are meant to provide further detail on welfare of specific animal species or industries are not currently mandatory. Further, even mandatory standards contain large sections of optional guidelines. Where a standard or code is not mandatory, it may effectively provide a 'green light' to commit animal cruelty, in the absence of a clear framework for prosecuting offences for animal welfare violations that are specified in the standards. Having weak standards that provide exemptions for acts that would otherwise be considered violations of the Animal Care and Protection Act 2001 are, in practice, worse than having no regulations at all.

## Monitoring and enforcement

Having strong animal welfare laws is meaningless if there is not an adequate and well-resourced monitoring and enforcement regime in place. The inspectorate (currently including Biosecurity Queensland under DAF, and RSPCA Qld) should be well resourced to adequately cover animal welfare complaints throughout the entire state as well as capacity for routine inspections of commercial facilities.

Sadly, the current Bill offers very little regarding monitoring and enforcement of the Act.

There is also a concerning lack of transparency around protection of animal welfare in animal agriculture, and an extremely low rate of prosecutions for animal cruelty in animal agriculture. ALQ shares the view of the majority of Australians[16] that animal welfare laws need to be addressed, and transparency should be a key part of addressing concerns.

Feedback on complaints and access to information is another important issue that needs to be better addressed and formalised under the ACPA. There is a strong public interest in animal welfare. As animals cannot speak for themselves, there is a solid argument for providing additional access to updates and finalised reports of animal cruelty matters to animal protection organisations such as ALQ. Currently, the government does not publish data regarding the number of cruelty complaints received, complaints investigated and enforcement action taken.

The data provided by Agriculture Victoria[17], while not comprehensive, is an example of a more open system that publishes action taken by the department including prosecutions, penalties handed out, and examples of cases. We would like to see the information published and updated as regularly as possible, and to include all cases that are prosecuted rather than just examples.

[15] As the content of regulations is outside of the scope of the current ACPA review, they are not addressed in this submission.

[16] http://www.agriculture.gov.au/SiteCollectionDocuments/animal/farm-animal-welfare.pdf

[17] https://agriculture.vic.gov.au/livestock-and-animals/animal-welfare-victoria/pocta-act-1986/record-of-prosecutions

Animal agriculture industries often boast about animal welfare being a priority. Yet, numerous investigations[18] show the shocking reality that animals in many intensive farms and slaughterhouses are subjected to horrendous suffering.

Currently, the public can have no confidence that these kinds of abuses are not widespread because there is no independent oversight and there is a severe lack of transparency. Enforcement for farmed animals in Queensland lies with Biosecurity Queensland and we understand there is no current regular inspection regime. The monitoring system is "complaints based", meaning inspectors will only investigate if a complaint is lodged. Many locations where animals are bred, kept, used or killed are hidden away from public view, so the only way a potential animal welfare problem can be exposed is either through a worker blowing the whistle or in some rare cases, an activist covertly filming.

Even when violations are detected or reported, enforcement of animal welfare laws in the animal agriculture sector relies on a 'compliance' model of regulation and rarely results in a prosecution. Rather than being punished, authorities seek to 'educate' offenders and assist them to comply with relevant legislation. Punitive enforcement is extremely rare[19]. Therefore, there is little incentive for companies to invest in improving animal welfare.

*Photo: 'Boe' was left to slowly die at a pig semen collection facility in Wacol, Brisbane. Despite the video evidence plus first hand evidence of cruelty and neglect, the offender was not prosecuted. More information at: https://alq.org.au/wacol-pigs2*

We support greater powers for inspectors to enter property. Inspectors should be given explicit powers to enter any commercial facilities as part of routine and unannounced inspections. By commercial facilities, we refer to any location where animals may be held for the purpose of profiting from them (including for example: intensive farms; feedlots; saleyards; slaughterhouses;

[18] https://www.farmtransparency.org/campaigns
[19] https://www.researchonline.mq.edu.au/vital/access/manager/Repository/mq:45113

other animal agricultural farms; racing facilities including tracks, training, stables and kennels; places where captive animals are held or exhibited; animal testing facilities; places where animals are bred for sale; places where animals are sold).

Where we can do so legally, ALQ regularly visits saleyards, abattoirs, rodeos, farms etc, and it's not unusual to find animals suffering as well as potential violations including emaciated, injured or sick animals. In most cases, we hear nothing following subsequent cruelty complaints lodged with authorities. In almost all cases, if it were not for ALQ visiting these places, the animal welfare issues would have remained unnoticed by authorities.


*Photos: Emaciated cattle photographed at Queensland saleyards in 2021.*

## RSPCA oversight

Increased governance, training and disclosure obligations placed on RSPCA Qld should be accompanied by increased resources/funding to allow inspectors to carry out their duties effectively. Importantly, we strongly recommend that RSPCA Qld be free to independently prosecute cases without authorisation from the chief executive.

## Prescribed time of review

20 or more years is an excessive amount of time for Queensland's central animal welfare laws to be reviewed. Community expectations around animal welfare are evolving at a rapid pace. According to a survey report prepared for the Australian Government, 95% of respondents viewed farm animal welfare with concern, and 91% want reform to address animal welfare issues[20]. Animal welfare science and understanding of animal sentience is also evolving rapidly. It is essential that animal welfare laws are reviewed regularly to keep in step with community expectations, as well as the latest animal welfare science. **There should be a mandatory prescribed time for review no less than every 10 years.** Each review should include a period of consultation and consider the latest science as well as community opinion and aim for continual improvements in animal welfare.

[20] https://www.outbreak.gov.au/sites/default/files/documents/farm-animal-welfare.pdf

Thank you for the opportunity to make a submission regarding the Animal Care and Protection Amendment Bill 2022 and for your consideration of the points raised.

We welcome the opportunity to discuss the matters raised above with any of the committee members and to provide any further information which may assist with the review. We also welcome any opportunity to provide further details at a public hearing.

Yours sincerely,

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