

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

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## **Submission**

**State Development and Regional Industries Committee  
Community Consultation - Animal Care and Protection  
Amendment Bill 2022**

*June 2022*





Animal Justice Party

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The Animal Justice Party 2022

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The Animal Justice Party acknowledges the First Nations peoples as the custodians of the land on which we live and work.





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## About the Animal Justice Party

The Animal Justice Party (the AJP) is a political party established in 2009 to secure the interests of animals and nature through Australia's democratic institutions of government. Our vision is a planet on which animals and nature have the right to live and thrive free from negative human interference and a human society which functions with kindness and compassion within its ecological limits as a responsible member of the Earth community.

The AJP seeks to foster respect, kindness, and compassion towards all species particularly in the way governments design and deliver initiatives, and the manner in which these initiatives Function.

In New South Wales the AJP has 2 elected representatives in the Legislative Council of NSW, Mark Pearson MLC and Emma Hurst MLC and a councillor in local government, Councillor Matt Stellino. In Victoria, the AJP has an elected representative in the Legislative Council, Andy Meddick MLC, and a councillor in Local Government, Councillor Julie Sloan.

This submission was prepared by the Queensland Submissions Working Group within the AJP. The working group makes this submission on behalf of the AJP with the approval and the endorsement of the Board of Directors.



## Background

When the *Animal Care and Protection Act 2001* (the Act) became law, it introduced such significant positive reforms for animals that Queensland was regarded as a leader in the field. Twenty one years later, Queensland is now significantly lagging behind most Australian jurisdictions. Queensland has by far the highest number of cruelty reports of all Australian states and territories and law reform is much needed. The AJP supports a number of the changes introduced in the Animal Care and Protection Amendment Bill 2022 (the Bill) however is disappointed that it falls a long way short of what is needed to have a significant impact on animal protection in Queensland. In particular, the Bill brings *little - if any* - welfare improvement to the majority of animals kept in Queensland: farmed animals.

The AJP is troubled that the Bill as it stands will not improve animal protection in Queensland but is designed rather to benefit other stakeholders, mainly animal users and the Government. Indeed, the Explanatory Notes to the Bill indicate that not introducing the Bill and retaining the status quo...

- *'may be seen as failing to take the community and stakeholder's [sic] concerns seriously and may also be seen as being inconsistent with interstate and international welfare legislation.'*
- *'will not address the risks to the welfare of animals through the use of devices such as prong collars, or practices such as firing or blistering of the legs of horses and dogs.'*
- *'will not address market access, in particular premium export markets which expect a commitment to animal welfare standards being met, which can only be demonstrated by legislation.'*
- *'will not address reputational risk to the Queensland Government and the department by failing to appropriately respond to the review of a 20-year-old legislative framework.'*
- *'would not allow research activities to be conducted by persons other than veterinary surgeons, as it would be contrary to the VS Act. The consequence is that it may reduce the ability for research institutes to undertake research projects in Queensland. This may force them to relocate to other jurisdictions as most of the other Australian jurisdictions exempt research activities from veterinary science. This would have a significant and detrimental impact to the Queensland scientific community and would reduce the State's ability to access cutting edge research.'*

Of these reasons only the second relates directly to improving the welfare of animals, although this regards practices which are rare and affect a small number of animals only.



## THE AJP'S SUBMISSION TO THE *REVIEW OF THE ANIMAL CARE AND PROTECTION ACT 2001*

The AJP is most DISAPPOINTED that the majority of the recommendations which were included in the AJP's submission to last year's *Review of the Animal Care and Protection Act 2001* have not been incorporated into the Bill. The submission included 47 recommendations including the following which, if enacted, would make a significant difference to animal protection in Queensland:

- Recognition of animal sentience
- Establishment of an independent office of animal protection free from conflicts of interest and properly funded
- Clause to *prevent* animal cruelty as a purpose of the Act
- Prohibition on egregious traps such as steel-jaw and glue traps
- Ban rodeos
- End the use of dogs for pig hunting
- Right to release for animals used in experiments
- Remove all exemptions to cruelty offences found in Chapter 3 Part 6
- Include *likely harm* in s 18(2)
- Introduce third party rights to prosecute.

## THE BILL

The AJP's position on the amendments included in the Bill are as follows:

### Clauses 3 and 39

The AJP SUPPORTS inclusion of Cephalopoda in the definition of animal and RECOMMENDS the prompt production of a relevant code of practice to ensure their humane handling. The AJP is CONCERNED by the failure to include Malacostraca in the Act, or at least crabs, lobsters and crayfish as per legislation in Victoria (s 3, POCTA). In the ACT (Dictionary, AWA), New South Wales (s 4, POCTA), Northern Territory (s 4, AWA) these species are protected when killed for human consumption.

### Clause 4

The AJP SUPPORTS the requirement to make codes of practice based on good practice and scientific knowledge and looks forward to seeing such codes in place but WARNS that codes will never truly eliminate harm or cruelty.

### Clause 5

The AJP SUPPORTS increased penalties for serious breaches of duty of care.



**Clause 6**

The AJP SUPPORTS the clarification of liability in cases of animal abandonment but is DISAPPOINTED that the opportunity was not taken to remove the term 'unreasonable' in this section. This term is not to be found in the NSW legislation. It can never be argued that the abandonment of an animal is reasonable.

**Clause 7**

The AJP is DISAPPOINTED that the amendment to s 20 did not include an explicit ban on rodeos, or at least calf roping. Allowing these events to continue is inconsistent with the purpose of the Act to 'protect animals from unjustifiable, unnecessary or unreasonable pain'. Calf roping is already banned in the ACT, Victoria and South Australia.

**Clauses 8, 11 and 17**

The AJP SUPPORTS allowing regulated procedures that are not surgical in nature to be prescribed.

**Clause 9**

The AJP SUPPORTS the ban on the docking of a dog's tail by laypersons, however it OBJECTS to the penalty (100 PUs) being set much lower than other acts of cruelty under s 17 (2000 PUs). It is also absurd that the penalty for docking a dog's tail (100 PUs) is lower than for the mere failure to have the relevant signed veterinary surgeon's certificate (150 PUs).

**Clauses 10 and 40**

The AJP OPPOSES allowing laypersons to undertake spaying of 'cattle', whether they are accredited or not. This practice is surgical in nature and should not be exempted under the *Veterinary Surgeons Regulation 2016*. The AJP also OPPOSES pregnancy testing by laypersons. We note that the Australian Veterinary Association is opposed to these practices being conducted by laypersons.

**Clause 12**

The AJP SUPPORTS the restriction on supplying animals subject to restricted procedures. Instead of, or as an alternative to, the onerous obligation to keep the certificate for the life of the animal, the AJP RECOMMENDS that this information be recorded on the microchip register.

As mentioned above (Clause 9), the AJP OBJECTS to the penalty for not keeping the certificate (150 PUs) being higher than for illegally conducting the procedure, eg cropping the dog's tail, in the first place (100PUs). This is untenable and does not serve as a deterrent.

**Clause 13**

The AJP IS CONCERNED by the removal of the explicit obligation to exercise closely confined dogs. We understand that prosecution for failure to exercise dogs may be possible under s 18 but



are concerned that the removal of s 33 sends an unwelcome message to the community.

The AJP RECOMMENDS that the Department supports an education campaign regarding the tethering and confinement of dogs.

The AJP SUPPORTS the proposed safety requirements for transporting dogs but OPPOSES the blanket exemption for working dogs. It may be possible to safely transport an unsecured dog on the back of a ute travelling slowly in a paddock but the exemption should not apply on public roads.

#### **Clause 14**

The AJP SUPPORTS a ban on pronged collars - this should have been banned decades ago - but STRONGLY OPPOSES the qualifying terms '*if the person has a reasonable excuse*' in relation to the use of the collar. There can be no reasonable excuse for using a pronged collar - s37A(2).

The AJP also RECOMMENDS that the prohibition be extended to electric collars in the Act.

The AJP SUPPORTS a ban on the possession and use of certain nets but RECOMMENDS that nets, such as the opera house nets, fruit netting with a weave exceeding 5mm x 5mm and any others for which there is already ample evidence that they cause non-target animals to suffer, be included in the relevant section of the regulations immediately.

The AJP SUPPORTS the prohibition on blistering and firing horses and dogs (and any other animal for that matter).

#### **Clauses 15 and 34**

The AJP SUPPORTS allowing veterinarians to euthanise animals in the circumstances described and protecting them from liability if they do.

#### **Clause 16**

The AJP SUPPORTS a ban on CSSP but is DISAPPOINTED that 1080 is not also prohibited. It is a poison that is used extensively and causes suffering to a large number of animals, unlike CSSP which is rarely used.

#### **Clause 18**

The AJP SUPPORTS the clarification of what constitutes the use of animals for scientific purposes. It is DISAPPOINTED however that bird banding and fish tagging continue to be exempt practices. The AJP OBJECTS to the use of animals for scientific purposes.

#### **Clauses 19, 20, 21**

The AJP SUPPORTS the proposed administrative amendments.





## Clause 22 (Ch 4A)

As mentioned above the AJP is opposed to 'cattle' spaying by non veterinarians. However, if the spaying of 'cattle' is allowed under accreditation, the AJP RECOMMENDS the following:

- section 93B must include a clause requiring the accredited scheme to be consistent with the purposes of the Act.
- the proposed section 93R register of approved 'cattle' procedures accredited schemes must record details of how the procedure is to be conducted (including requirement for pain relief). This would provide an extension of the Animal Welfare Standards and Guidelines and is essential to increase transparency and accountability of the accreditation schemes.
- an explicit provision must be included in the Act to ensure that an accredited person who is non-compliant with the scheme can be prosecuted under the Act. Under the current amendment, the owner of the scheme appears to be the only party responsible for 'responding to an accredited person's noncompliance with the accreditation, including by suspending or cancelling the accreditation' (s 93B(a)(vi)). Prosecution must be available in addition to cancelling or suspending the person's accreditation, especially in cases of serious non-compliance. It would not be in the interest of the owner of an accreditation scheme to cancel a person's accreditation as this might cause loss of revenue, bad publicity, etc and for this reason may be reluctant to do so. There must be an alternative to achieve compliance.

## Clauses 22 (Ch 4B) and 38

The AJP strongly SUPPORTS the use of CCTV cameras in slaughterhouses. However the AJP is CONCERNED by the current definitions of 'livestock' and 'livestock slaughter facilities' which are confusing. The term 'livestock' has different meanings when used alone and in the phrase 'livestock slaughtering facility'. The AJP URGES the Committee to recommend that CCTV cameras be used in all slaughtering facilities for *all species of animal being slaughtered*. 'Cattle' and sheep, the predominant animals in slaughtering facilities, must be explicitly included in the definition so that they can be protected under this section.

We note that the *Inquiry into Animal Cruelty in the Management of Retired Thoroughbred and Standardbred horses in Queensland* (the Martin Inquiry) found that '*CCTV surveillance at meat processing establishments is an emerging standard that promotes better practice and increased public trust in the meat production industry*' (finding 10h). This finding has a broad application beyond horses and this should apply to the Act. In addition, the Martin Inquiry noted the Woolworths Group policy on animal welfare which requires that 'Abattoirs must have CCTV in place for key *animal* handling processing areas'; and the *Slaughterhouse (England) Regulations 2018* which require likewise. It is clear that requiring the installation of CCTV cameras in slaughtering establishments, regardless of the species handled, is entirely consistent with broader community expectations.



s 93W(2) - the AJP OBJECTS to recordings being kept for 30 days only. We URGE the Committee to recommend that this period be extended to 12 months to allow for investigation and prosecution if necessary. The mere 30 day period sits strangely against the obligation placed on the owner of a dog with a docked tail to keep the veterinary certificate for the life of the dog.

The AJP also URGES the Committee to recommend that the Department inspect recordings on a regular basis, and not simply wait for complaints to be made by employees. Unless inspections are done proactively, this reform will have very limited impact on the welfare of animals.

S 93Z - The AJP RECOMMENDS that the obligations imposed on the owner of a livestock slaughtering facility to notify of the arrival of animals (s 93Z) apply in the alternative to *the person in charge* at the time.

### **Clauses 23, 24, 25**

The AJP SUPPORTS these amendments regarding cancellation/suspension of an Inspector's appointment.

Note typo in s 118B(1) - Change inspectors to inspector's.

### **Clause 26**

The AJP is CONCERNED about the imposition of a penalty on Inspectors, merely for failing to complete training within a regulated time. This appears to be an overreach which would not apply in most workplaces. A more reasonable way of dealing with such a matter would be to counsel the Inspector, review the Inspector's workload and if needed issue a warning at first instance.

### **Clause 27**

The AJP RECOMMENDS that the power of entry be broader so that inspectors are able to enter slaughtering facilities even if animals are not present, for instance to inspect the CCTV facilities, recordings or equipment.

We note that section 27(1) refers to horses only. This is again confusing and too narrow.

The AJP SUPPORTS section 27(2) to allow inspectors to enter places where animals have been abandoned.

### **Clause 28**

The AJP SUPPORTS the expansion of powers of entry to provide relief to an animal. The AJP however RECOMMENDS that these powers be expanded further *to any situation where an animal is at imminent risk of injury or death*. This could include situations where the animal is about to drown, choke, be electrocuted, or injured by machinery, etc. These scenarios cause as serious a risk as those mentioned and require similarly swift intervention.

**Clauses 29, 30, 31**

The AJP RECOMMENDS that inspectors be given powers to also issue animal welfare directions in cases where a person has failed to comply with the requirements of an accreditation scheme. As mentioned above, it would be absurd if only the owner of the scheme was able to respond to non-compliance.

**Clause 32**

The AJP SUPPORTS the recognition of interstate prohibition orders. However, the AJP RECOMMENDS the following:

- instead of referring to a law 'that corresponds to the provisions of this Act', the Act should refer to a 'relevant law'. This may overcome confusion if an interstate law does not correspond exactly in title or in wording with the ACPA.
- The Bill should provide for the creation of a register of animal offenders/prohibition orders and for the sharing of information with other jurisdictions. Both are essential to reciprocate with other jurisdictions wanting to recognise Queensland offenders.

**Clause 33**

The AJP is CONCERNED by this amendment which restricts the ability of persons to prosecute an animal welfare offence unless they are authorised by the chief executive. This is particularly concerning as there is no criteria stated for this authorisation which could therefore be discretionary.

The AJP is DISAPPOINTED that the narrow time frame for prosecutions has not been extended.

**Clause 35**

The AJP is CONCERNED by the extra obligations imposed on Inspectors to disclose information relevant to investigations. This could have serious consequences for the privacy of complainants and reduce incentive to report cruelty. At the very least, the extra burden imposed on the RSPCA by this obligation and others incorporated in the Bill must be addressed by proper funding and resources for investigations.

**Clause 36**

The AJP has no concern regarding the new definitions.



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## Conclusion

The Bill is a missed opportunity to meaningfully improve the lives of animals in Queensland and falls significantly short in addressing the community's expectations for protecting animals. The Palaszczuk Government is offering a number of small, mediocre reforms while pandering to animal industry stakeholders. Serious issues remain unaddressed which could easily be resolved or at least substantially improved by the Bill: factory farms, greyhound and horse racing, rodeos, pig hunting, glue traps, animal experimentation ... and the list goes on. More concerning, the Bill fails to even acknowledge the systemic problems in the animal protection space. If the Bill is passed, as is, Queensland will still be missing the fundamentals required for genuine animal protection: the recognition of animal sentience, the proper enforcement of animal cruelty laws, and an end to loopholes and industry exemptions. Fundamentally, at its core, the Bill further entrenches the use and exploitation of animals and in turn, the Queensland Parliament fails to protect them. This review is an opportunity to again make Queensland a proud leader. But without serious improvement and a found willingness to consider inconvenient questions about humanity's collective relationship with other animals, the Bill condemns Queensland to instead fall even further behind other jurisdictions which are rationally considering the intrinsic value of animals and how to best guarantee their protection within human society.