

Inquiry into the Animal Care and Protection Amendment Bill 2022

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1 June 2022

Mr Chris Whiting
Chair, State Development and Regional Industries Committee
Parliament House, George Street
BRISBANE QLD 4000

Dear Mr Whiting

Re: Animal Care and Protection Amendment Bill 2022

Humane Society International (HSI) thanks the State Development and Regional Industries Committee for considering our submission on the Animal Care and Protection Amendment Bill 2022.

HSI is the world's largest conservation and animal welfare organisation with over 10 million supporters globally. We have more than 25 years' experience in Australia working to achieve an ecologically sustainable and humane world for animals.

HSI is also a proud member of the Australian Alliance for Animals, which was recently formed to pursue critical reforms to animal welfare regulatory frameworks.

HSI wishes to use this opportunity to state our full support of the comments and recommendations set out in the Australian Alliance for Animals' submission to this Committee.

HSI also offers the brief comments below on behalf of our 70,000 Australian supporters.

The Bill presents several important advancements for the protection of animals in Queensland, such as requiring CCTV in knackeries and banning pronged collars and tail-docking for cows. However, HSI is disappointed by the Bill's many shortcomings; notably, the failure to recognise animals' sentience in the purposes of the Bill, the missed opportunity to entrench independent and robust standards-setting processes and governance for animal welfare, and the continued carve out of certain animals from the duty of care protections based solely on the animals' commercial use to humans rather than contemporary science about their welfare.

In particular, HSI submits that the Bill ought to specify that mulesing will be a regulated procedure at a certain future date, with pain relief to be mandated for any mulesing that is performed before the

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legislated phase-out date. It is well documented in scientific literature that mulesing is an unnecessarily painful way to manage flystrike, meaning mulesing would clearly infringe the duty of care and cruelty provisions in the Act were it not for the arbitrary offence exemptions that the Bill regrettably retains. The selective breeding of plain bodied sheep is a commercially viable and humane genetic solution for managing flystrike that has been successfully adopted by many producers, as highlighted in the [Towards a Non-Mulesed Future](#) report. We also draw the Committee's attention to HSI's [Better Wool Guide](#) that showcases the big Australian retailers that have adopted policies against mulesing. It is high time that there is regulatory leadership to do the same.

HSI further submits that the Bill ought to introduce a ban on the use of battery cages in layer hen facilities. The Independent Review Panel tasked with reviewing and drafting the Australian Animal Welfare Standards and Guidelines for Poultry recommended a phase-out of battery cages, which HSI hopes will soon be endorsed by Agriculture Ministers. This Bill presents an opportunity for Queensland to lead the national roll out of that phase-out by incorporating a ban on battery cages directly into the Act. While layer hen welfare has historically been dealt with in subordinate legislation and industry codes, there is no impediment to the introduction of a phase-out date for battery cages in the primary Act.

We also enclose our submission of 21 May 2021 in response to the discussion paper, as many of the issues raised in that submission – such as the need to better legislate against dogfighting – have not been addressed in the Bill.

We hope our submissions assist the Committee in preparing its report.

Yours sincerely,



Martine Lappan
Animal Welfare Law & Policy Campaigner
Humane Society International



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Attn: Manager, Animal Care and Protection Act Review
Animal Biosecurity and Welfare, Biosecurity Queensland
GPO Box 46, Brisbane QLD 4001

Submitted via email to ACPReview@daf.qld.gov.au

21 May 2021

Dear Sir/Madam,

RE: SUBMISSIONS IN RELATION TO THE REVIEW OF THE ANIMAL CARE AND PROTECTION ACT 2001 (QLD)

Humane Society International ('HSI') welcomes the opportunity to provide this submission in relation to the review of the *Animal Care and Protection Act 2001* (QLD) ('ACPA'). We look forward to the update and modernisation of the legislation to reflect community values over animal welfare.

We are the world's largest conservation and animal welfare organisation with over 10 million supporters, and are leaders in the movements to save wildlife and reduce cruelty to animals. We have more than 25 years' experience in Australia working actively to assist government bodies and agencies to further the protection of animals welfare through appropriate regulations and enforcement.

HSI offers the comments below on behalf of our 70,000 Australian supporters.

HSI agrees to have our submission made public after the consultation closes.

Question 7 - Purposes of the ACPA

HSI does not agree that achieving a reasonable balance between the welfare needs of animals and the interests of people whose livelihood is dependent on animals is a suitable purpose in alignment with current welfare expectations of the community and consumer preferences.

HSI is of the view that the welfare needs of animals should be prioritised and the needs of humans should only be satisfied by the use of animals insofar as they do not suffer harm or negative welfare impacts as a result.



HSI also submits that Queensland should incorporate the recognition of sentience and the intrinsic value of animal lives into the purposes of the Act, so that these concepts can colour the interpretation of the Act in all contexts. The objects of the *Animal Welfare Act 1992* (ACT)¹ are a useful example of this. Acknowledging sentience recognises that animals feel emotions which is important when regulating human conduct towards animals.

Scientific research is clear on sentience and supports the view that many animals are able to experience physical and psychological pain in a similar fashion to humans. The European Union first recognised animal sentience in 1997 in the Treaty of Amsterdam. New Zealand also followed in 2015 by recognising the term in its *Animal Welfare Act 1999*, and then Quebec in a 2015 amendment to its Civil Code.

Question 8 - Prohibited Events

HSI somewhat disagrees that the current prohibited event provisions are appropriate.

HSI submits that the provisions around dog fighting should be expanded. Current legislation leaves room for the keeping and breeding of dogs for dog fighting, as well as the possession and sale of equipment used in this practice. Amendments to the Act should plug these gaps to create solid pathways to preventing clandestine dog fighting operations.

HSI would also like to see specific prohibitions on the following events:

- *Greyhound Racing*: HSI feels strongly that the use of greyhounds for racing and gambling is inhumane and should be prohibited. We regret that Australia is one of just 8 countries in the world that continues to allow this industry. Stronger regulations are urgently needed, particularly when this industry is subsidised by the Australian public, many of whom oppose it. HSI also recommends that betting on the performance of any animals should be a prohibited activity.
- *Rodeos*: Rodeos typically cause torment and stress to cattle and horses, exposing them to pain, injury and even death. The cruelty associated with rodeos has already been recognised in some regions with a complete ban in place in Britain, some parts of Europe and the United States. Unfortunately the spectator sport is still permitted in many states of Australia, including Queensland. The animals used in rodeos are physically provoked into displaying 'wild' behaviours through the use of electric prods, spurs, flank straps, and other rodeo devices. HSI opposes this form of entertainment. The high risk of injury and potential fatalities should make this a prohibited activity in Queensland.

Finally, we submit that there should be an overall ban on the exhibition of cetaceans and of all exotic animals in circuses in Queensland, including elephants, bears, and pinnipeds (seals, sea lions and walruses) to ensure new facilities do not feature any of these species in future. Queensland is now the only state in Australia still breeding dolphins for entertainment. NSW recently banned the breeding of dolphins, whales, orcas and porpoises other than for scientific, education or conservation reasons, in a move welcomed by HSI. We would strongly urge Queensland to ban the breeding and importation of dolphins and other

¹ Section 4A

cetaceans for entertainment because we believe their needs simply cannot be met in a captive environment.

The practice of using wild animals solely for entertainment purposes should be prohibited due to the negative welfare outcomes.

Question 9 - Reporting of animal welfare concerns by veterinary professionals

HSI is concerned that an obligation to report by veterinary professionals would discourage people from seeking medical care for their injured animals.

We would not support mandatory reporting of suspected animal welfare abuses, however, we would support legal protection to the fullest possible extent for veterinary professionals who do choose to report suspected matters of cruelty.

Question 10, 11, and 12 - Regulated surgical procedures

HSI does not agree that the current list of regulated surgical procedures is appropriate.

According to the advice of the Australian Veterinary Association ('AVA'), surgical procedures that would be carried out purely for the benefit or convenience of humans should not be performed.² We note that the current ACPA allows the debarking of dogs where a vet is of the view that debarking is the only way to prevent nuisance barking without destroying the dog. The AVA advises that nuisance barking is a symptom of other issues present in the dog's environment, and while debarking may end the noise, it does not remedy the root cause of the barking. Barking is a normal canine behaviour and debarking can cause further behavioural issues or distress to the dog. In alignment with the advice of the AVA, HSI does not support the debarking of dogs under any circumstances.

For the remaining procedures, namely cropping of dogs ears, removal of cats claws, and horse or cow tail docking, HSI is of the view that these procedures should only be carried out by a licensed vet where medically necessary for the welfare of the animal, and only as a last resort. HSI submits that it should be explicitly stated in the ACPA that these procedures should never be carried out purely for the benefit of humans or for cosmetic reasons.

Pain relief should be mandatory for painful procedures which can also often cause distress. Such invasive procedures should be undertaken at the earliest age possible and strictly by an accredited and competent operator. For instance, appropriate pain relief should be administered for procedures on livestock including, but not limited to:

- Piglets: Tail docking, teeth clipping, castration
- Cattle: Dehorning, branding, castration, spaying
- Lambs: Mulesing, castration, tail docking

² Australian Veterinary Association, Surgical alteration of companion animals' natural functions for human convenience (2018)
<https://www.ava.com.au/policy-advocacy/policies/surgical-medical-and-other-veterinary-procedures-general/surgical-alteration-of-companion-animals-natural-functions-for-human-convenience/>

- Sheep: Laparoscopic insemination, surgical embryo transfer.

In a similar vein to cow tail docking, HSI submits that there should be a phase-out of mulesing in Queensland. Although perhaps more directly dealt with in the codes and regulations, there is no reason a prohibition on mulesing could not be prescribed in the ACPA. The practice of mulesing has been considered a 'necessary' invasive procedure, however, a humane alternative means this is not the case. Careful genetic selection can be used to breed plain-bodied sheep that are resistant to flystrike and do not require mulesing. Not only can they produce mules-free plain bodied sheep, but they can also eliminate the need for tail docking, improve heat, humidity, and cold tolerance, improve productivity and feed conversion efficiency, and more. This approach has already been adopted in hundreds of farms in Australia. Furthermore, mulesing is now banned in all other major wool-exporting countries – including New Zealand most recently as well as South Africa, Uruguay, and Argentina. Consumers and the market are incentivising the transition away from mulesing to a point, but legislation is required to phase out the practice comprehensively.

HSI does not support tail docking of dogs and does not think it should be permitted in any circumstance.

HSI agrees that animals that have undergone any of the above-mentioned procedures must not be supplied or sold without full certification that these procedures were performed by a veterinary professional, with pain relief, and because they were medically necessary. It should be an offence to sell or supply an animal that has been subjected to these procedures without proper certification.

In addition to the issues outlined in this section of the Discussion Paper, HSI also submits that in order to appropriately deal with the issue of surgical procedures and treatment of farm animals, Queensland should promptly adopt the *Australian Animal Welfare Standards and Guidelines*. We note Queensland has indicated its intent to incorporate the Standards and Guidelines but has yet to do so. Once adopted, we would encourage Queensland to consider implementing regulations that are higher than those prescribed in the Standards and Guidelines, given the development and adoption process for the Standards and Guidelines is slow and as a result, they may lag behind current community farm animal welfare expectations. HSI submits that the ACPA should also be amended to allow auto-adoption of national standards and guidelines once agreed, in order to avoid inconsistent farm animal welfare standards and guidelines across the country.

Question 13 - Possession or use of certain traps or spurs

HSI agrees that the current provisions for spurs are appropriate, namely that they cannot be used on animals and kept only for display purposes.

Although we acknowledge this is beyond the scope of the current review, HSI is alarmed that no traps are currently prohibited under the *Animal Care and Protection Regulation 2012*, and would like to state that the use of yabby traps, including opera house traps, in river systems should be prohibited as they are a serious threat to native wildlife such as platypus. Furthermore, the use of steel jaw traps should be prohibited under the Regulations, so that

they may not be used on feral or pest species under s42 of the ACPA. Of particular concern to us is the use of these traps on dingoes.

Question 14, 15, and 16 - Dogs

HSI agrees with the current offences relating to the use of dogs to kill or injure other animals.

HSI notes that current provisions relating to the confinement of dogs appear to be in keeping with the highest current standards across Australian states, and so we are in agreement with retaining the current provisions. However, we submit that if future scientific advice recommends shorter confinement times will improve dog welfare, the provisions should be adjusted accordingly.

HSI agrees that transporting unrestrained dogs in the back of an open utility or truck tray should be made an offence under ACPA.

Question 17 and 18 - Using animals for scientific purposes

HSI does not support the use of animals for scientific procedures and encourages reductions in animal use through more robust application of established 'Three Rs best practices', to Reduce, Refine and Replace laboratory testing on animals, laying the groundwork for a more substantial methodological shift over the longer-term. HSI would welcome legislation that promotes the Three Rs best practice. Thanks to modern technology, there are non-animal alternatives available for use in scientific testing, such as computer modelling and in vitro cell testing. Often, these alternatives can produce data that is far more relevant and accurate than those produced from live animal testing. Methods, Approaches, Programs & Policies (MAPP), formerly the Toxicity Testing Resource Centre (TTRC), provides comprehensive information³ on non-animal methods of toxicity testing.

Internationally, HSI works through intergovernmental bodies such as the OECD to accelerate global adoption of modern non-animal testing methods, and through our network of country offices to have these new approaches taken up through national regulations. Our efforts have been instrumental in securing "mandatory alternatives" requirements in Brazil and South Korea, whereby it is illegal for a company to conduct animal experimentation if a non-animal approach is available. HSI also supports training in developing countries to help companies and government authorities transition to modern non-animal methods.

Question 19 - Inspectors: Powers of inspectors

HSI agrees that the current range of powers afforded to inspectors under ACPA are sufficient to allow the proper investigation of animal welfare breaches. However, resourcing may be a significant barrier to actually carrying out these investigative powers. This will be further expanded on in our answer to question 22.

HSI also supports an increase in police training and resourcing to identify and investigate criminal animal welfare breaches.

³ AltTox, *Toxicity Testing Overview* (2016) <http://alttox.org/mapp/toxicity-testing-overview/>

Question 20 and 21 - Inspector: Externally appointed inspectors

HSI agrees that it is appropriate for the Queensland Government to appoint external inspectors such as the RSPCA to conduct investigations and undertake prosecutions under the ACPA.

However, we note that this is a fairly unique situation wherein the responsibilities of the government to enforce the law are outsourced to a charitable organisation. To that end, we submit that the RSPCA and any other charities that may in the future be charged with powers under the ACPA should be appropriately resourced and supported to implement the provisions of the Act so that the Act is not rendered ineffective purely because its implementation is reliant on the charitable giving of Australian citizens.

HSI agrees that inspectors from non-government organisations should be held at least to the same standard as government-appointed inspectors, however, they should not be discouraged from exceeding this standard either.

Question 22 and 23 - Compliance and enforcement

HSI agrees that the range of current compliance options offered under ACPA are appropriate for dealing with breaches of the Act. We would support the introduction of on the spot fines (PINs) for the lower range of offences and where they would be actually effective as a deterrent.

HSI submits, however, that in order for this suite of compliance options to be properly enforced, inspectors and prosecutors must be appropriately funded. At present, it is a concern that many criminal breaches of the animal welfare acts around Australia go unprosecuted due to limited financial resources. This limitation is only exacerbated by the fact that enforcement duties are discharged in part to a charitable organisation. As a result, breaches of the Act may never be appropriately prosecuted in a criminal court due to resource limitations. Criminal breaches of animal welfare laws should be treated just as seriously as other areas of criminal law and enforced with equal government resourcing.

Question 24, 25, and 26 - Orders relating to animal welfare offences

HSI notes that where an animal is seized for the duration of proceedings, the financial burden of caring for the animal is transferred to the Department or the RSPCA. This may, in some circumstances, provide a disincentive to seize animals in danger in order to preserve already limited enforcement resources.

To remedy this, HSI supports the idea of offering owners an opportunity to pay a bond for the care of a seized animal until the conclusion of proceedings. We would caution that this opportunity should strictly be offered in circumstances where courts are satisfied that the animal would be safe eventually returning to their owner, so as not to create a way for dangerous owners to be able to guarantee their animals return through the payment of a bond. We would also caution that this mechanism should not be used to penalise otherwise

good faith owners who may not be in a financial situation to pay the bond, and therefore a means test should be conducted before this opportunity is recommended.

HSI also supports court-ordered rehoming or adoption where evidence suggests that it would never be safe for the animal to return to its original owners. If the animals are allowed to be sold, this should only be for a token sum or for no more than the cost of caring for the animal for the duration of the seizure.

Question 27 - Establishing appropriate penalties

HSI agrees that current maximum penalties under the ACPA are appropriate, and congratulates Queensland for having the highest available penalties of all Australian jurisdictions.

However, as discussed in our response to question 22, animal welfare offences should be treated with the same degree of seriousness as other types of criminal offences. We are of the view that more funding needs to be committed to the prosecution of animal welfare breaches. While it is beyond the scope of this review, HSI would be in support of prescribing higher sentencing guidelines for courts for animal welfare offences to encourage penalties that will actually discourage further offences under the Act.

Additional matters

Pest control using 1080 baits

HSI notes that s42 offers an exemption to the prohibition on the use of poison in s36 for the control of feral or pest species. We are firmly opposed to the use of 1080 poison baits to control pest species, in particular dingoes. Dingoes (as well as dingo-dog hybrids) are considered declared pests, however, that is no justification for allowing the use of inhumane methods to kill them. This is an unacceptable situation particularly when many progressive producers, both in Australia but particularly around the world, are moving towards more effective and proactive alternative stock protection methods that deter interactions between wild canids and farm animals without lethal and inhumane practices being deployed.

Sharks

HSI notes the exemption to the animal welfare offences under the ACPA where the offence is used to protect people from shark attacks or as part of an agreement between the State and any person otherwise.⁴ HSI opposes this exemption and does not support the use of baited drumlines or nets in Queensland waters to reduce shark populations in a misguided attempt to reduce the risk of shark bite. There are a number of alternatives available that are not detrimental to the welfare of sharks and other non-target marine species that may be caught by these traps. These alternatives include drones, personal shark deterrents/barriers and SMART drumlines which are designed to be non-lethal and less detrimental to welfare. These alternatives have been trialled in other Australian states with great success.

We note the orders made by the Administrative Appeals Tribunal in 2019 that the shark control program carried out in the Great Barrier Reef must be undertaken in a manner “*that*

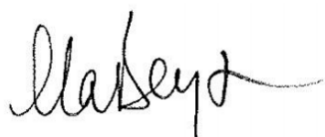
⁴ ACPA Section 46

avoids, to the greatest extent possible, the lethal take of shark species” and that “euthanasia of sharks caught on the drum lines is only to be undertaken on animal welfare grounds”.⁵

Although only directly applicable to the shark control program as implemented in the Great Barrier Reef, the ruling is a reflection of current broader community values. HSI submits it is high time that the ACPA is amended to remove the exemption in s46 and prevent unnecessary cruelty to sharks and other marine life.

Thank you again for the opportunity to make submissions to this review. We are looking forward to seeing modernised animal welfare standards implemented in Queensland.

Kind regards,



Nicola Beynon
Head of Campaigns
Humane Society International Australia

⁵ *Humane Society International (Australia) Inc and Department of Agriculture & Fisheries (Qld) [2019] AATA 617*