

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

**Submission No:** 1382  
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## **Submission to Inquiry into the Animal Care and Protection Amendment Bill 2022**

I welcome the opportunity to provide a response to the above review. I write in the hope my submission assists the committee in recognising the community expectations on animal welfare are rapidly changing and in turn have an increased expectation that Government will provide the required framework to protect the most vulnerable species in our communities.

I also hope my submission highlights the requirement to have protections in place for animals. It is fair to say that the majority of people would be incredibly disappointed to learn of the limited changes proposed to update the current laws and how little protection will be afforded to animals if this Bill is passed.

Twenty one years have passed since the introduction of the *Animal Care and Protection Act 2001*, and Queensland is now lagging behind most Australian and international jurisdictions. Queensland has by far the highest number of cruelty reports of all Australian states and territories and law reform is well and truly overdue.

I support a number of the changes included in the Animal Care and Protection Amendment Bill 2022 (the Bill) and wish to point out that this Bill falls a long way short of the rapidly evolving community expectations and fails to have a significant impact on animal protection in Queensland.

I am astounded that this Bill will not improve animal protection in Queensland and is designed to benefit stakeholders, specifically those who profit from animals as well as the Government.

Upon reviewing the Explanatory Notes to the Bill, it is clear to me that the Government acknowledges that if no changes are made to the current legislation, the QLD Government is continuing to fail at its core role of protecting animals. The following statements are evidence of this:

- *'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.'*

To my astonishment, only the second statement relates directly to the improvement of animal welfare, and the issues listed are practices that are of the **rarest** in occurrence. Sadly, all other reasons are self-serving.

## Responses to the *REVIEW OF THE ANIMAL CARE AND PROTECTION ACT 2001*

It is notable, that significant elements that will bring the current legislation into alignment with the community's expectations can be broadly listed as:

- 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
- Increased transparency on actions taken by the Department of Agriculture

## THE BILL

My response to the amendments included in the Bill are as follows:

### **Clauses 3 and 39**

I SUPPORT the inclusion of Cephalopoda in the definition of animal and RECOMMEND the prompt production of a relevant code of practice to ensure their humane handling. I am 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**

I SUPPORT the requirement to make codes of practice based on good practice and scientific knowledge and looks forward to seeing such codes in place yet WARN that codes will never eliminate harm or cruelty.

#### **Clause 5**

I SUPPORT increased penalties for serious breaches of duty of care.

#### **Clause 6**

I SUPPORT the clarification of liability in cases of animal abandonment and 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**

I RECOMMEND an amendment to s 20 to include an explicit ban on rodeos, and as a minimum, a ban on 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**

I SUPPORT allowing regulated procedures that are not surgical in nature to be prescribed.

#### **Clause 9**

I SUPPORT a ban on the docking of a dog's tail by laypersons, however OBJECT to the penalty (100 PUs) being set much lower than other acts of cruelty under s 17 (2000 PUs). It is a significant failure of the reform when the penalty for docking a dog's tail (100 PUs) is lower than for the failure to have the relevant signed veterinary surgeon's certificate (150 PUs).

#### **Clauses 10 and 40**

I OPPOSE 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*. I also OPPOSE pregnancy testing by laypersons. I point out that the Australian Veterinary Association is **opposed** to these practices being conducted by laypersons.

#### **Clause 12**

I SUPPORT 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, I suggest this information is to be recorded on the microchip register.

As mentioned above (Clause 9), the I OBJECT 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 counterproductive and does not serve as any type of deterrent.

### **Clause 13**

I am CONCERNED by the removal of the explicit obligation to exercise closely confined dogs. I accept that prosecution for failure to exercise dogs may be possible under s 18 but am concerned that the removal of s 33 sends a message to the community that this practice is acceptable as it is not clearly stated as it was previously.

There must be an education campaign regarding the tethering and confinement of dogs.

I SUPPORT the proposed safety requirements for transporting dogs but OPPOSE the blanket exemption for working dogs. It may be possible to safely transport an unsecured dog on the back of a utility vehicle travelling slowly in a paddock, but the exemption is not to apply on public roads.

### **Clause 14**

I SUPPORT a ban on pronged collars - this should have been banned decades ago - but STRONGLY OPPOSE 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).

I RECOMMEND that the prohibition be extended to electric collars under the Act.

I SUPPORT a ban on the possession and use of certain nets and RECOMMEND 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.

I SUPPORT the prohibition on blistering and firing horses and dogs (and any other animal for that matter).

### **Clauses 15 and 34**

I SUPPORT allowing veterinarians to euthanise animals in the circumstances described and protecting them from liability if they do.

### **Clause 16**

I SUPPORT a ban on CSSP but am ASTOUNDED that 1080 is not also prohibited. It is a poison that is used extensively and causes suffering to a large number of animals – specifically NON TARGET SPECIES, unlike CSSP which is rarely used. If this poison was used on pets or native animals, it is considered animal cruelty. It is important to ban 1080 due to its nonspecific nature and distinct cruelty. Those who wish to protect their 'stock', must do so via more protective means – such as better fencing and be combined with capture/spay/enclose programs that are more effective.

### **Clause 18**

I SUPPORT the clarification of what constitutes the use of animals for scientific purposes and am DISAPPOINTED that bird banding and fish tagging continue to be exempt practices. I OBJECT to the use of **ALL** animals for scientific purposes.

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

I SUPPORT the proposed administrative amendments.

### **Clause 22 (Ch 4A)**

I am OPPOSED to 'cattle' spaying by non-veterinarians. In the event spaying of 'cattle' is allowed under accreditation, I would support the following RECOMMENDATIONS:

- 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 partly 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**

I strongly SUPPORT the use of CCTV cameras in slaughterhouses; however I am ALARMED 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'.

I REQUEST the Committee 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.

I 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. 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 I OBJECT to recordings being kept for 30 days only and URGE the Committee to recommend that this period be changed to 12 months to allow for investigation and prosecution if necessary. The meagre 30 day period sits in opposition to the obligation placed on the owner of a dog with a docked tail to keep the veterinary certificate for the life of the dog, whilst the activity that protects the greatest number of animals sits in contrast with no real intent to protect.

There are additional benefits to the community for keeping this footage for a longer time frame, and that is slaughterhouse workers are some of the most vulnerable in our community. They are also often the place of employment for those who commit crimes against domesticated animals and their fellow humans. This footage could be valuable in the event of an event involving a worker of a slaughterhouse, to assist in a criminal or civil case, or could also assist a workplace to improve practises. The time frame of 30 days for retaining footage is insufficient for anyone to assess its contents and utilise it for useful purposes.

In addition, I also URGE the Committee to INCLUDE a clause that the Department inspect recordings on a regular and random basis, and not 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.

An option for BEST PRACTICE would be to create a clause to include independent monitoring of the footage.

S 93Z – I RECOMMEND 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**

I SUPPORT these amendments regarding cancellation/suspension of an Inspector's appointment.

#### **Clause 26**

I am CONCERNED about the imposition of a penalty on Inspectors, for failing to complete training within a regulated time. This appears to be an unnecessary inclusion which would not apply in many workplaces. A practice more in line with workplace rights for employee's would be to counsel the Inspector, review the Inspector's workload and issue a warning at first instance.

#### **Clause 27**

I RECOMMEND the power of entry be broader to enable inspectors to be able to enter a slaughtering facility at times when animals are not present, for instance to inspect the CCTV facilities, recordings or equipment.

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

I SUPPORT section 27(2) to allow inspectors to enter places where animals have been abandoned.

#### **Clause 28**

I SUPPORT the expansion of powers of entry to provide relief to an animal and additionally RECOMMEND these powers to be expanded to cover *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 swift intervention.

#### **Clauses 29, 30, 31**

I RECOMMEND inspectors be given powers to 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 unreasonable if only the *owner* of the scheme was able to respond to non-compliance.

#### **Clause 32**

I SUPPORT the recognition of interstate prohibition orders and in addition, RECOMMEND the following:

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

#### **Clause 33**

I am 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*. Clear guidance is required.

I am DISAPPOINTED that the narrow time frame for prosecutions has not been extended.

#### **Clause 35**

I am CONCERNED by the additional 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. The community is well aware that whistle-blowers are reluctant to come forward if they are personally at risk from those who perpetuate 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 adequate funding and resources for investigations.

### **Clause 36**

I have no concerns regarding the new definitions.

## 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 reforms that do nothing to modernise the laws or protect animals, 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 many more.

What alarms me the most is, the Bill fails to even acknowledge the systemic problems in the animal protection space. If this Bill is passed in its current form, Queensland will still be missing the fundamental framework 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, this 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 make Queensland a leader in the animal protection space, yet the Bill in its current form, condemns Queensland to 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.

Thank you for taking the time to read my submission.

Kind regards and in expectation of significant improvements for animals,

Marzena Sylwia Jensen