



26th April 2018

Mark Warner
Committee Clerk
Standing Committee on Legislation
Parliament House
4 Harvest Tce
PERTH WA 6005
By email: lcl@parliament.wa.gov.au

Dear Mr Warner,

I am writing in relation to the request for written submissions to the Standing Committee on legislation in relation to the Animal Welfare Amendment Bill 2017 ('the Amendment Bill').

As per discussions with you on 20 April 2018, both WA Farmers Federation (WAFarmers) and the Kimberley Pilbara Cattlemen's Association (KPCA) sought extensions to provide written submissions to 4pm 27 April 2018. In light of these extensions, WAFarmers and KPCA have collaborated on a written submission to provide to the Standing Committee. This combined submission also reflects the views of the Stud Merino Breeders Association of Western Australia (SMBAWA), Australian Dairy Farmers (ADF) Limited and WA Live Exporters Association (WALEA) ('the Industry Bodies').

Areas of Broad Agreement with the Animal Welfare Amendment Bill 2017

The Industry Bodies in principle support and broadly endorse the concept of the National Animal Welfare Standards and Guidelines being linked to the *Animal Welfare Act 2002 WA* ('the Act').

The Industry Bodies also support the employment of public sector employees, engaged by the Director General of the Department of Primary Industries and Regional Development to investigate reports of alleged livestock cruelty and/or animal welfare breaches. RSPCA General Inspectors should be restricted to investigating cruelty cases specifically relating to companion animals e.g. domesticated animals like cats and dogs held in urban areas.

Summary Areas of Concern with the Animal Welfare Amendment Bill 2017

In short, the Industry Bodies have identified the following issues of concern in relation to the Amendment Bill as currently drafted:

1. The Henry VIII style amendments (i.e. where the regulatory power is increased so that future change to regulations can avoid the transparent parliamentary process) which largely include:
 - a. The power to adopt the National Standards and Guidelines (NSG) by way of regulation and in a way that is not clearly stipulated in the Amendment Bill as currently drafted; and
 - b. The regulatory power to amend defences and make some defences unable to be relied upon in defence of some offences.
2. The incorporation of the NSG:
 - a. should not be utilised to introduce a range of new offences into the Act; and

- b. needs to allow for standard industry practices that can vary across regions in the same way the current Model Code of Practice does;
3. The Minister's proposed power to appoint Designated General Inspectors; and
4. Increased powers of entry of the Designated General Inspector without the requirement for notice and the removal of the show cause provisions.

Detailed Explanation of Areas of Concern

1. Issues Relating to the Henry VIII Style Amendments

The concern regarding the Henry the VIII style amendments largely relates to the fact that the Amendment Bill as currently drafted only makes mention of the ***prescribed code of practice*** and does not explicitly reference the NSG. Further, whilst the NSG are referenced in the Second Reading Speech and Explanatory Memorandum, this adds to the lack of clarity in that both of these supporting documents appear to be unclear in relation to the extent to which the NSG would be mandatory given Guidelines typically refer to practices that are desirable but not mandatory (point (i.) on page 1 of the Explanatory Memorandum).

Further, the Industry Bodies must ensure that none of the currently available defences available to livestock producers are removed or unable to be relied upon (i.e. standard industry practice and reliance upon a Code of Practice for the Welfare of Animals)

2. The Manner in which the National Standards and Guidelines (NSG) are Incorporated into the Act so that it does not Introduce New Offences

The NSG should be incorporated into the Act in the same way as the Model Code of Practice for the Welfare of Animals which is currently referenced in the Act and allows it to be used by the courts as a guide to best practice and also can be relied upon as a defence to a charge of animal cruelty where an accused person is complying with the Code. The NSG should not be utilised to introduce a range of new offences and should accommodate regional differences in the way the current Model Code of Practice does.

In accommodating regional differences, consideration needs to be given to the painful procedures specified in the National Standard and Guidelines on Cattle (section 6) specifically, castration and de-horning, of cattle over 12 months of age and the requirement for the use of pain relief/analgesics. However, recognition is also required, consistent with the current Model Code of Practice for the Welfare of Animals, that there may be exceptional circumstances in relation to range management of older, previously unmustered feral cattle in extensive operations where de-horning and castration may be required to be carried out without analgesics on older animals.

Further, there may need to be further consideration of the point at which the improvements in pain relief have reached a level where it is feasible for industry/pastoralists to more readily use these along with the development and implementation of Animal Welfare Quality Assurance System.

Industry bodies are concerned sound and necessary welfare practice may be prescribed as acts of cruelty under the current Bill. For example the practice of mulesing lambs is a necessary and important welfare requirement for some wool producing flocks in specific areas of the country. The practice is only completed under strict standards.

3. The Ministerial appointment of Designated General Inspectors

The Industry Bodies seek clarity on the terms of reference for these appointments specifically in relation to a person's qualifications, neutrality/independence and background working in/with industry. Clarity is also required on the avenues of recourse/mechanisms for review will be available to livestock owners should they feel aggrieved by the actions of an inspector.

The Industry Bodies do not support the Amendment Bill provisions that enable Ministerial appointment of Designated General Inspectors. Industry bodies require these roles to be appointed by the Director General of DPIRD and for them to be public sector employees.

4. Rights of Entry by Designated General Inspectors

The Industry Bodies believe it is entirely unacceptable to allow the right of entry by Designated General Inspectors to livestock enterprises without notice and reasonable cause nor clearly defined triggers.

Further, uncontrolled access may compromise specific biosecurity protocols required by national Livestock Production Assurance standards and may in fact compromise on-farm animal welfare.

The Industry Bodies thank the Standing Committee on Legislation for the opportunity to provide a written submission and would collectively welcome the opportunity to give evidence to the Committee

Yours sincerely,



David Slade
President Livestock Council
WA Farmers



David Stoate
Chairman
Kimberley Pilbara Cattlemen's Association



David Inall
Chief Executive Officer
Australian Dairy Farmers Ltd



Wayne Button
President
Stud Merino Breeders Association WA