



THE HON PETER McGAURAN MP
MINISTER FOR AGRICULTURE, FISHERIES AND FORESTRY

Ms Roxane Le Guen
Committee Secretary
Senate Rural and Regional Affairs and Transport Legislation Committee
Department of the Senate
Parliament House
CANBERRA ACT 2600

3 JAN 2005

Dear Ms Le Guen

In response to the general invitation issued by the Senate Rural and Regional Affairs and Transport Legislation Committee to provide a written submission on the *National Animal Welfare Bill 2005*, I enclose for your consideration a submission prepared by the Department of Agriculture, Fisheries and Forestry.

The contact officer in the Department on this matter is Dr Peter Thornber (tel 6272 3925).

Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter McGauran', written in a cursive style.

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Submission by the Australian Government Department of Agriculture, Fisheries and Forestry to the Senate Rural and Regional Affairs and Transport Legislation Committee on the *National Animal Welfare Bill 2005*

1. Introduction

This submission was prepared by the Department of Agriculture, Fisheries and Forestry in response to the general invitation issued by the Senate Rural and Regional Affairs and Transport Legislation Committee to provide written submissions on the *National Animal Welfare Bill 2005* (the Bill).

The submission outlines the broad Australian approach to animal welfare, roles and responsibilities within the current framework for developing and enforcing animal welfare standards, recent government and industry initiatives to deliver improved animal welfare outcomes, as well as comments on the Bill.

2. Executive summary

The key objectives of the Bill, to elevate the priority generally accorded animal welfare and facilitate a stronger national approach to animal welfare, are already being addressed by the Australian Animal Welfare Strategy (AAWS). The AAWS, which has won the support of all the key animal welfare stakeholders and is now being implemented, represents a more inclusive and sustainable approach to improving the welfare of animals than that offered by the Bill.

The key aim of the AAWS is to develop a stronger national approach to animal welfare. It embraces an outcomes rather than a rules based approach and incremental not radical change. This is contrasted with the Bill which adopts a regulatory, central government approach as a basis to improve animal welfare.

The submission recommends that implementation of the AAWS should now be the focus of efforts to advance the welfare of all animals in Australia.

3. The Australian approach to animal welfare

The defining feature of the Australian animal welfare scene is the range of mechanisms in place for facilitating engagement by all players; governments, animal handlers, the veterinary profession, the animal welfare groups and the science community, to work together to develop animal welfare policy, programs and standards and to implement these.

At the research institution level there are animal ethics committees, at the state/territory level there are animal welfare advisory committees and at the national level there is the National Consultative Committee on Animal Welfare.

4. Current legislative responsibilities

Under current constitutional arrangements, legislative responsibility for animal welfare within Australia rests primarily with state and territory governments. All states and territories within the Commonwealth of Australia have contemporary and comprehensive animal welfare legislation. Local governments have legislation relating to the management of companion animals. The Australian Government has responsibility for trade and international agreements.

This portfolio has responsibility for Australian Government legislation that covers the welfare of animals involved in the live animal export trade and animals processed at export registered slaughter establishments (*Australian Meat and Live-stock Industry Act 1997* and *Export control Act 1982*).

The Australian Government Department of the Environment and Heritage (DEH) has responsibility for the welfare of kangaroos killed for commercial purposes; State Management Plans being subject to DEH approval. DEH is also responsible for the conduct of introduced animal management under the DEH National Threat Abatement Plans and for animal welfare aspects of wild animal management and animal research on Australian Government lands.

Another role of the Australian Government is to have input to the international negotiations on animal welfare and the development of international standards. This portfolio works through the International Animal Health Organization in contributing to the development of animal welfare standards for livestock. DEH is involved in negotiating treaties (eg the Convention on International Trade in Endangered Species of Wild Fauna and Flora - CITES) and once they are ratified by the Australian Government, oversees implementation of such treaties.

5. Codes of Practice

National Model Code of Practice (Model Codes) for animal welfare in the livestock industries have been developed over the past 25 years through government bodies in consultation with industry groups and animal welfare organisations.

The Model Codes provide guidelines and specify the duty of care to be given to animals. They are adopted throughout Australia, either directly by reference in legislation or indirectly in the development of state and territory codes to meet specific regional needs. The Model Codes are used as a resource for the education of animal carers and the development of training and awareness programs.

They also provide a basis for animal welfare standards within industry quality assurance programs and compliance with the Model Codes can be used in legal proceedings as a defence. Additionally, there are more locally-based codes relevant to companion animals, animal management and animal control.

There are periodic reviews of Model Codes to include advances in animal welfare science, changing community expectations and evolving industry practices and to consider the implications for Australia of overseas developments. There are continuing efforts to promote awareness of the Model Codes and to determine ways to ensure adoption of these requirements.

Animal Health Australia and its members have recently also developed some benchmarks for animal welfare within the framework of performance standards for the Australian animal health system.

The use of animals in research and teaching is determined by the *Australian Code of practice for the care and use of animals for scientific purposes (Scientific Code)*. The National Health & Medical Research Council is responsible for development and implementation of this code which describes ethical guidelines and establishes institutional Animal Ethics Committees (AECs) to make the necessary ethical

evaluations. The resulting process seeks to protect the welfare of animals and, at the same time, allow their continued use in biomedical, veterinary, agricultural and environmental research so that people and animals can benefit from advances in human and animal health and better management of the environment.

Research or teaching projects using animals are performed only when the value of the envisaged outcomes outweigh the possible effects on the welfare of the animal. AECs apply the principles of Replacement, Reduction and Refinement (3Rs), to minimise the number of animals used, diminish impacts on animals and to achieve an acceptable balance.

The Scientific Code has been developed through a consultative process involving government, welfare groups, researchers and teachers. It is referred to in State and Territory legislation. As a consequence, the use of animals in research and teaching must comply with the ethical requirements of the Scientific Code and the legal requirements set out in statute law.

6. Australian Animal Welfare Strategy (AAWS)

The AAWS was developed by the Australian Government over five years in concert with the animal industries, state and territory governments, RSPCA Australia, Animals Australia, the Australian Veterinary Association and other stakeholders and was endorsed by the Primary Industries Ministerial Council in May 2004. The AAWS covers all sentient animals in Australia and can be viewed at www.daff.gov.au/aaws.

The broad aims of the AAWS are to provide the national and international communities with an appreciation of animal welfare arrangements in Australia, to facilitate a stronger national approach to animal welfare and to outline directions for future improvements in the welfare of animals.

The six sectoral groups of animals identified by the AAWS are:

- livestock/production animals
- animals used for work, sport, recreation, or display
- companion animals
- animals in the wild
- aquatic animals
- animals used in research and teaching.

The AAWS builds upon historic and existing animal welfare arrangements in Australia. It recognises the intimate connection that exists between animal welfare and animal health and production.

It facilitates a national consultative approach to animal welfare that welcomes involvement of broad community, industry and government interests. It seeks to develop community support for the implementation of approved standards. It establishes a framework for sustainable animal welfare outcomes based on scientific evidence, in order to meet the expectations of the whole of the Australian community with a focus on achieving a balance between education, extension and regulation. It will also provide for greater harmony and consistency across jurisdictions.

The AAWS recognises that animal welfare is a complex issue. Science and ethics are both essential. Science provides the body of evidence about animals that is used for moral and ethical judgements about their welfare. At the same time, decisions about animal welfare are influenced by cultural, social, economic and occupational health and safety considerations. Australia emphasises the importance of stockmanship, the skills and responsibilities of animal carers and their role in good husbandry and the delivery of acceptable animal welfare outcomes.

It embraces a broad vision for the humane treatment of all sentient animals and provides a framework for sustainable improvements in animal welfare outcomes, based on scientific evidence and social, economic and ethical considerations. It reflects the high regard Australians place on the value, care and the well-being of animals.

The AAWS is aimed at the entire Australian community including, persons in charge of an animal, animal users, the veterinary profession, livestock producers, processors and transporters, animal welfare bodies, researchers and teachers, governing bodies of sport and recreation organisations, educational facilities, consumers, government agencies and harvesters.

It has been developed with wide community consultation over a period of five years. Where specific action plans need to be established under the AAWS, key actions and responsibilities of stakeholders will also be developed and agreed through consultation.

The goals of the AAWS are to achieve:

1. An enhanced national approach and commitment to ensure high standards of animal welfare based on a concise outline of current processes;
2. Sustainable improvements in animal welfare based on national and international benchmarks, scientific evaluation and research, taking into account changes in whole of community standards; and
3. Effective communication, education and training across the whole community to promote an improved understanding of animal welfare.

7. Implementation of the AAWS

The Department of Agriculture, Fisheries and Forestry has appointed a dedicated AAWS implementation team which is working with the AAWS Advisory Committee and the full range of stakeholders to implement the Strategy.

The ten member Advisory Committee is a high level group chaired by Dr John Drinan. Members are highly regarded experts in their fields representing a range of industry, government, community and technical groups which provide a balance of skills and experience to successfully guide implementation of the strategy.

An important step in the implementation was the convening of a National Strategic Planning Workshop in Canberra on 22-23 September 2005. The workshop produced an agreed draft national implementation plan, which has been published on this portfolio's website, and a draft list of members for each of the six sectoral working

groups that will support the implementation of the AAWS, by developing specific sectoral action plans. These documents are with workshop participants for comment.

The implementation plan specifically seeks a harmonised national approach to the development and application of clear, contemporary, adequate and consistent animal welfare legislation across all jurisdictions under Goal 1, Activity 4 of the AAWS.

The Australian Government has agreed to provide \$6 million over the next four years to assist with implementation of the AAWS.

8. Livestock exports

Following the broad-ranging investigation in 2003 into Australia's livestock export industry chaired by Dr John Keniry, the Australian Government announced new Australian Government initiatives to improve animal welfare conditions in the livestock export trade to the Middle East as part of an \$11 million response to the Keniry Report. Part of this response includes a \$4 million investment to help improve animal welfare practices in importing countries and to upgrade their handling procedures.

The Australian Parliament has passed legislation to implement stronger regulation of the livestock export industry. This includes a requirement to comply with the new Australian Standards for the Export of Livestock, that can be viewed at the website www.daff.gov.au/livestockexportstandards. This legislation is an important step in the efforts of the Australian Government to overhaul the livestock export trade. These new arrangements acknowledge community concerns about animal welfare as an important consideration if the livestock export trade is to be sustainable.

The Australian Government has recently signed Memoranda of Understanding (MoUs) on the live animal trade with the United Arab Emirates (UAE), Kuwait, Saudi Arabia, Jordan and Eritrea. The aim of the MOUs is to protect the health and welfare of the animals by agreeing on the conditions under which the trade in live animals can be undertaken. Key provisions contained in the MoUs include assurances that live animals will be off loaded on arrival, either in the normal manner or if there is a suspected problem, into a quarantine zone for further inspection and testing prior to a final decision on the future of the animals. This guarantees that animals will not be left on vessels for protracted periods outside of the normal shipping time for the journey.

The Australian Government and the livestock industry are keen to improve the welfare and treatment of animals involved in the livestock export trade. The Australian Government is determined to implement further improvements.

Detailed information on the initiatives to improve the welfare of live trade animals is available on the Australian Government Department of Agriculture, Fisheries and Forestry website, www.daff.gov.au/livetrade. Dr Keniry's Livestock Export Review is also available on this site.

9. Regional Strategy to Improve Animal Welfare in the Middle East

While remaining sensitive to cultural differences with our trading partners, Australia's involvement in this trade allows us to influence change and improve animal welfare conditions in the Middle East.

Australia's Chief Veterinary Officer, Dr Gardner Murray, has co-chaired two recent expert meetings in the Middle East to progress negotiations on technical cooperation to improve animal handling and welfare in the Middle East. The first meeting was held in Bahrain on 29 September 2005, in conjunction with a meeting of the World Organisation for Animal Health (Office International des Epizooties – OIE) Regional Commission for the Middle East.

The second meeting was an expert meeting between Australia and the Gulf Cooperative Council, held in Muscat, Oman, on 13 November 2005. This has resulted in agreement by the GCC Countries to work with Australia and to develop a Regional Strategy to Improve Animal Welfare and Handling.

The Regional Strategy will cover key issues such as:

1. legislative framework and standards consistent with the OIE Animal Welfare Guidelines;
2. training and development in animal handling, requirements for facilities, product quality and disease management, animal production and health for government and private industry;
3. funding, coordination and evaluation to support improvements in animal handling systems; research and development; and communication.

Australia will lead a working group that includes representatives from Meat and Livestock Australia, OIE, Oman, Saudi, United Arab Emirates, Qatar.

A draft Strategy will be completed by early 2006 and a further meeting of Middle East countries and Australia is proposed for February 2006 to consider the draft Strategy and the next steps. The Regional Strategy will accommodate bilateral agreements negotiated through the MOUs.

10. Proposed move from codes to mandatory national standards for farm animals

A consultancy report commissioned by this Department, which recommends the replacement of the Model Codes of Practice with minimum national standards enforceable in all jurisdictions, has been circulated to the State and Territory Governments and the livestock industries as a discussion paper. Meetings of stakeholder representatives convened by Animal Health Australia in July and November 2005 have elicited broad agreement to adoption of this approach. While there will be further consultation within the livestock industries on this issue, it is expected that the approach will be considered by the Primary Industries Ministerial Council in 2006.

11. Limitations Imposed by the Constitution

The *National Animal Welfare Bill 2005* follows on from the *National Animal Welfare Bill 2003* which was introduced by Senator Bartlett to Parliament on 11 August 2003. The Australian Government Solicitor advised that while the Commonwealth Parliament does not have specific legislative power in relation to animal welfare, the

2003 Bill, which is similar to the 2005 Bill, was designed to apply within constitutional limits. It is accordingly understood that the Parliament has the legislative power to enact legislation along the lines of the 2005 Bill.

The Bill proposes the development of a national animal welfare system but would not establish a comprehensive national regime for animal welfare given the limitations imposed by the constitution. Significant areas of animal welfare would not be covered, e.g. ownership or treatment of animals by individuals within each of the States for purposes unrelated to interstate or overseas trade and commerce. The family dog or cat and recreational hunting are practical examples. The Commonwealth could regulate such issues only if the States referred the matter of animal welfare to the Commonwealth.

12. Key Features and Impacts of the System Proposed in the 2005 Bill

Key features of the proposed system are the establishment of a National Animal Welfare Authority (the Authority) overseen by an Animal Welfare Ministerial Council; and the appointment of national inspectors by the Authority to enforce the proposed legislation.

The Bill embodies a regulatory, central government approach to animal welfare involving a shift of responsibility for animal welfare from the states and territories to the Australian Government.

Australian Government involvement in animal welfare inspection, as proposed by the Bill, represents a significant change and potentially would involve significant additional costs for the Australian Government and for industry. Animal welfare inspection is currently dealt with at a state and territory level where appropriate legislation is in place.

There does not appear to have been any consultation with the states/territories and any change in the regulatory arrangements for animal welfare would require the close cooperation of these jurisdictions.

13. International Trade

The proposed legislation would have a range of significant impacts on international trade which would be objectionable to both industry and government.

One of the three main objectives in proposing a National Animal Welfare System is listed in the Bill as *the international adoption of minimum (animal welfare) standards by limiting Australia's international trade in animals and animal products to trade with those countries that observe comparable standards*, notwithstanding the difficulty in making comparisons between standards under different production systems or between output based and regulation based approaches to animal welfare standards.

Australia's animal welfare standards are arguably the world's best so Australia's economy would be adversely affected by restricting the trade to those countries who observe comparable standards. International relations would also be adversely

affected if this proposal was adopted because such a restriction on trade could be judged by our trading partners as inconsistent with Australia's WTO obligations.

The Bill would duplicate current requirements for the licensing of livestock exporters administered by AQIS. It would require livestock exporters to apply to the Authority for a permit to transport live animals for commercial purposes from Australia. Similarly, the Authority may withdraw a livestock export permit if an animal keeper fails to implement the provisions of the Act or to comply with any approved code of practice for exporting live animals. Further, a permit is required from the Authority to import animal products; and an import permit must not be issued unless the country from which animal products originate have comparable animal welfare standards to Australia.

14. Recreational Fishing

Clause 3 (b) (ii) of the Bill would prohibit the capture and killing of wild animals for the purpose of entertainment and sport. Significant sections of the community would find this objectionable including the very large number of Australians who engage in recreational fishing. The Department explicitly opposes this provision of the Bill.

15. Conclusion

The key objectives of the Bill, to elevate the priority generally accorded animal welfare and facilitate a stronger national approach to animal welfare, have been pursued with vigour by the Australian Government and are being fully addressed by the AAWS.

The Australian Government's strong commitment to animal welfare is demonstrated by the initiative it took in developing the AAWS and agreeing to provide \$6 million over the next four years to assist in implementing the AAWS.

Having been developed under the auspices of the National Consultative Committee on Animal Welfare over five years in concert with the key stakeholders, the AAWS enjoys ownership by those stakeholders. The key aim of the AAWS is to develop a stronger national approach to animal welfare, rather than a central government approach, and it embraces an outcomes rather than a rules based approach to animal welfare and incremental not radical change.

Implementation of the AAWS, not the *National Animal Welfare Bill 2005*, should now be the focus of efforts to advance the welfare of all animals in Australia.