



18th April 2018

Mr Mark Warner
Committee Clerk
Standing Committee on Legislation
Parliament House
4 Harvest Terrace
PERTH WA 6005

Dear Mr Warner

Animal Welfare Amendment Bill 2017

The Livestock and Rural Transport Association of Western Australia (Inc) (LRTAWA) represents most livestock transporters in Western Australia. Our members carry livestock from point of production to point of sale whether that is farm, saleyard, abattoir, feedlot, live export or between farming properties. The industry continues to invest in new and innovative equipment that improves the welfare of livestock being transported.

It is important to note that it is in transporters best interests to ensure the livestock under their care during a journey is carried in accordance with current acceptable standards and best practice. To this end the LRTAWA frequently lobbies other stakeholders in the supply chain regarding improvements to infrastructure and processes that will reduce the possibility of adverse animal welfare outcomes. The LRTAWA was instrumental in developing the first code of practice for sheep and cattle in WA and more recently took a lead role in the developmental process for with the Land Transport Animal Welfare Standards and Guidelines.

Based on our strong commitment to animal welfare, demonstrated leadership towards improvement and general understanding of the pros and cons of the existing legislative framework we offer the following comments.

Include contents of the Bill in the Animal Welfare Act Review

The Minister for Primary Industries and Regional Development has announced a full review of the Animal Welfare Act 2002. The LRTAWA was involved in the initial stakeholder deliberation in November 2017. A report has been provided to the Minister and participants have been advised she will use the report to inform the remainder of the process. In the context of a substantial review the introduction of the Animal Welfare Amendment Bill 2017 appears premature and pre-empts the outcome of the broader review. The initial stakeholder consultation canvassed issues such as powers of inspectors, right of entry and the status of codes of conduct, all of which will be amended by the Animal Welfare Amendment Bill 2017 if it successful.

Deferring the Amendment Bill and including the contents in the substance and rationale of the major review would be more efficient and consistent with the good will shown by all parties to the review process. There has been no evidence that there is any urgency surrounding the implementation of the outstanding standards and guidelines which is the stated reason for the amendment bill. In practice industry has been informally working with the transport standards

and guidelines since 2012. Furthermore, by introducing the concept of a Designated General Inspector, the suggested amendments go further than the initial commitment that they were only to address the implementation of the Animal Welfare Land Transport of Livestock Standards and Guidelines.

35A. Designated general inspectors including new powers of entry

The Bill introduces a new category of inspector called a Designated General Inspector (DGI) who is appointed by the Minister in contrast to General Inspectors who are appointed by the CEO of the Department. Designated General Inspectors will monitor compliance with the Act and have the power to enter non-residential premises and vehicles at any time. There has been no commentary as to why this new category of inspector is necessary and in what circumstances they will be used. General Inspectors already have a power of entry if they have reason to suspect an offence will be, has been or is being committed. It is difficult to accept that immediate power of entry should be granted for the purposes of monitoring compliance. In most other situations reasonable notice is provided. Designated General Inspectors should be required to provide reasonable notice and to minimise any adverse effect on the business or activities of the occupier of the premises or the owner of the vehicle. A reasonable period would be at least 24 hours.

It is also not clear what operational standards and accountability Designated General Inspectors will need to abide by. Existing general inspectors are appointed under the Public Sector Management Act and must adhere to a range of interdepartmental and public sector rules and guidelines but it is unclear how DGI's will be held accountable other than an annual report to Parliament. Given the significant powers being bestowed on this position, including the power to enter non-residential premises and vehicles, the issue of accountability is crucial.

In general however, we do not believe that a Designated General Inspector category has been justified.

Section 5 Codes of Practice (however described)

The proposed amendments provide for the introduction by regulation of 'codes of practice' that may not be described as a 'code of practice'. The term 'however described' has the potential to allow an interventionist Minister and/or department to exert influence over the standards that must be adopted. Potentially this could be a practice deemed by a Minister or department to require a higher standard than an industry agreed standard.

We consider that careful drafting can provide for the codes of practice of the future, however they are described, whilst eliminating the possibility of ministerial or departmental interference.

In drafting these provisions care should be taken to ensure that flexibility is retained to implement standards and guidelines that are specific to Western Australia. Industry will not always agree that nationally endorsed standards and guidelines are compatible with the WA environment. Provided there is scientific support, the capacity to deviate should be available.

Section 19 amended

A new section is inserted after section 19(3) that provides the power to modify, the application of the defences to a charge of cruelty that are provided by sections 21, 22, 23, 24 and 25d. This amendment will provide the ability for regulations to modify or remove defences that already exist in the Act in regard to certain practices such as normal animal husbandry, veterinary care, killing pests or complying with a code of practice. This clause has been promoted as being

necessary so that the Act doesn't counteract the defences that exist in the standards and guidelines and will allow regulations to be carefully tailored and to go no further than necessary.


Whilst this justification is rational, it is wise to have an eye to the future. The potential for a defence to be modified or removed by administrative action does not provide certainty for transporters and others working with the Act daily. Again, we believe that careful drafting would ensure that the nexus between defences and the standards and guidelines is maintained at the same time as removing the potential for unpredictable acts by a future minister or department.

Conclusion

In conclusion the LRTAWA submits that the case for amendments to the Animal Welfare Act 2002 ahead of a major review is not justified and is counterproductive to a high-quality review process. This being the case the Animal Welfare Amendment Bill 2017 should be deferred and the proposed amendments considered as part of the major review.

We appreciate the opportunity to make a submission to this inquiry. Industry representatives are available to give evidence if appropriate. Should you require further information please do not hesitate to contact Jan Cooper on 92080320.

Yours faithfully

A handwritten signature in black ink, appearing to read 'S Marley', with a stylized flourish at the end.

Stephen Marley
President