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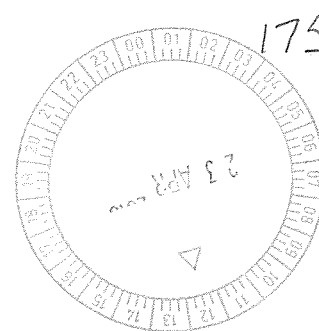
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23 April 2018

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

By email: [lccl@parliament.wa.gov.au](mailto:lccl@parliament.wa.gov.au)



Dear Mr Warner

**Re: Animal Welfare Amendment Bill 2017**

Australian Pork Limited ("APL") welcomes the opportunity to make a submission on the *Animal Welfare Amendment Bill 2017*.

APL is the peak national representative body for Australian pig producers. It is a producer-owned company combining marketing, export development, research and innovation and strategic policy development to assist in securing a profitable and sustainable future for the Australian pork industry. The Australian pork industry employs more than 36,000 people in Australia and contributes \$5.2 billion in gross domestic product to the Australian economy.

At the outset, APL does not support substantive amendments to the *Animal Welfare Act 2002* ("the Act") until the Western Australian Government has completed its legislative review. Substantive amendments of the kind proposed by the Government pre-empt the outcome of the review and may indeed compromise its ability to effectively interrogate issues with the legislative framework.

With regards to the proposed amendments, our comments are provided below:

**1. Section 3 amended: Regulating the conduct of people in relation to animals, including the manner in which animals are treated, cared for and managed**

APL notes that the Government has already made the *Animal Welfare (Pig Industry) Regulations 2010* under the Act, and therefore does not accept statements by the Government that the Act is lacking in its ability to implement standards and guidelines in other industries. The opinions on the need for urgent amendments to the Act in anticipation of the review are not shared by APL and it would be proposed that any necessary changes to the legislation's objective should be considered in the context of the review of the Act.

**2. Section 5 amended: Prescribed code of practice**

APL supports the amendment to the Act to allow codes of practice (however described) to be adopted through regulations. In addition to the adoption of the *Model Code of Practice for the Welfare of Animals: Pigs* ("Model Code") as written, APL proposes that the Government consider prescribing the Australian Pork Industry Quality Assurance Program (APIQ<sup>✓</sup>) as a voluntary code of practice, which supports quality assurance throughout the industry and promotes high welfare outcomes, in accordance with the Model Code.

The Victorian Government has legislated to require APL to report, through the APIQ<sup>✓</sup> program, any correctional action taken of those covered by the program, allowing the Government to direct their attention to producers who are not QA accredited. It should be reiterated that prescribing APIQ<sup>✓</sup> would not mandate the uptake of APIQ<sup>✓</sup> by Western Australian producers but would

serve to reduce the cost and regulatory burden of compliance by the government, and duplication with industry activities (e.g. independent APIQ<sup>✓</sup>® auditing of animal welfare on farm).

### **3. *Inserted section: Regulations – animal welfare, safety and health***

With regards to the above proposed section, APL cautions the Government to ensure that any mandatory regulations made under the Act are restricted to the Model Code and are supported by robust scientific analysis. APL does not accept that this broad section is required in order to make regulations that meet the objects of the Act, and could be sensibly limited to allow for standards, guidelines or codes of practice to be adopted. The expansive nature of this section, in particular 18B(2), appears designed to allow regulations to be made that go beyond the requirements of minimal welfare standards. APL maintains that there are quality assurance standards that exist across industry, supply chain and retail markets which effectively achieve the aim of driving higher welfare standards.

Western Australian pig producers require certainty in order to maintain competitiveness, support local employment and provide value to regional communities. The breadth of regulations allowed for by this proposed section has the potential to go beyond minimal standards of welfare acceptable by the broader community. Our members undertake their production in accordance with established science and continuously seek to improve the welfare of their animals. The lack of certainty that this section proposes could restrict producers' confidence in planning for the future, for fear of changes to regulations that will fundamentally change their business models.

### **4. *Section 19 amended:***

#### ***a. Has a prescribed act carried out on, or in relation to it***

APL considers that the operation of section 19 should be limited to identifiable actions of cruelty as are currently provided for in the Act, as well as identifiable breaches of prescribed standards (as agreed in the Model Code). APL does not support the addition of subsection 19(3)(fa) as currently drafted.

It is the view of APL that this limitation will achieve the object of this proposed subsection, without unnecessarily widening prescribed acts to include reactive perceptions of cruel behaviour as may arise from time to time. It is essential that all prescribed acts that may attract a penalty under the legislation reflect contemporary scientific research as to whether they are indeed cruel or improper, as distinct from acts which may have the appearance of such claims to a bystander.

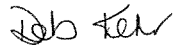
#### ***b. "...a defence provided under section 21, 22, 23, 24 or 25 does not apply to a charge under subsection (1) committed in a prescribed manner..."***

APL does not support amendments which allow regulations to change the operation of the primary legislation, in particular the removal of defences that are provided for in the Act. The existence of defences in the legislation is to identify relevant factors such as veterinary care, lawful authorisation, normal husbandry and the killing of pests as reasonable defences to non-compliance with prescribed acts. It is particularly concerning that a person acting within a prescribed code of practice (section 25) can be found to have committed an act of cruelty based on a regulation made by Government that has not been subject to the same scientific rigour as the prescribed code of practice.

APL notes that the existence of defences in the legislation does not provide a blanket acquittal of any charge that is laid under the Act. The defences are available to be used by a defendant, but must be accepted by a court in considering the circumstances of the alleged acts. Acts that are found to have gone beyond prescribed codes of practice, lawful authorisation etc. will not be supported by the defences that are outlined. Instead of allowing for defences to be removed by regulation, APL proposes instead that the Government places more emphasis on the specific uses of the defences to ensure that they are only available when certain circumstances apply. This would achieve the intent of the amendments without inserting sections which have the potential for unintended consequences and increased uncertainty for producers.

Should you require further information or have any questions, please do not hesitate to contact Alister Oulton on 02 6270 8832 or [alister.oulton@australianpork.com.au](mailto:alister.oulton@australianpork.com.au)

Yours faithfully

A handwritten signature in black ink, appearing to read 'Deb Kerr'.

Deb Kerr  
General Manager, Policy  
Australian Pork Limited

cc: West Australian Pork Producers' Association