



17th 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 West Australian Pork Producers Association (Inc) (WAPPA) represents the interests of WA pork producers and growers. Our members are very familiar with the requirements of the Animal Welfare Act 2002 and have substantial experience in the practicalities of applying animal welfare science and legal requirements. The industry has made significant investment in infrastructure, training, policy and programmes to ensure high levels of animal welfare bearing in mind that good animal welfare practices are fundamental to producing a high value product.

There are several aspects of the Animal Welfare Amendment Bill 2017 that are relevant to the WA pork industry and worthy of comment. These are described below.

35A. Designated general inspectors including new powers of entry

Designated General Inspectors(DGI) will be appointed by the Minister in contrast to General Inspectors who are appointed by the CEO of the Department. Their role will be to monitor compliance with the Act. DGI's will have the power to enter non-residential premises and vehicles at any time.

There are serious concerns about the operational standards and accountability of DGI's appointed by the Minister. Currently general inspectors 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. There appears to be no justification for a new type of inspector who may be given a roving commission, including the power to enter non-residential premises and vehicles, by the Minister of the day with very little supervision.

The Explanatory Memorandum states that the power to enter premises is not extraordinary as similar inspector's powers exist under the WA Biosecurity and Management Act (BAM Act). Under the BAM Act inspectors may stop, detain and enter conveyances or premises (except dwellings) without permission or a warrant, but must take reasonable steps to inform the owner, occupier or person in charge unless doing so would jeopardise the purpose for entry. The main difference between the biosecurity and animal welfare scenarios are that in some circumstances it would be possible to dispose of unlawful biosecurity matter if notice of inspection was given however in the animal welfare

scenario it is highly unlikely that non-compliance with the Act would be rectified in a short space of time.

Under the current WA Act, general inspectors may enter non-residential premises and vehicles provided not less than 24 hours' notice has been given and there has been no objection; or they reasonably suspect an offence has been, will be or is being committed. Designated General Inspectors will have no such restrictions. If Designated General Inspectors are to proceed (a proposition that we reject), they should be required to give the occupier of the premises or the owner of the vehicle reasonable notice of the proposed inspection; and give the owners a reasonable opportunity to accompany the inspector throughout the inspection and take such steps 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.

In summary we submit that no case has been made out for a new class of inspector with powers well beyond those of existing inspectors.

Section 5 Codes of Practice (however described)

This amendment allows for the introduction by regulation of 'codes of practice' that may not be described as a 'code of practice'. It is suggested this amendment is necessary to allow the implementation of agreed standards and guidelines however the term 'however described' is so broad as 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.

For example, if the Pork Industry Standards and Guidelines process accepts certain practices that the WA Minister is convinced are cruel, he/she could by regulation restrict their use. This would be despite the lengthy consultation process and scientific analysis that has taken place during the standard and guideline development.

The potential for unpredictable outcomes in this area will lead to uncertainty and undermine producer confidence when investing in new operations and infrastructure. It is submitted that careful drafting would accommodate new or different terms that may be used to describe standards and guidelines that have been rigorously assessed and are scientifically defensible, without risking industry confidence.

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. It is said this clause is 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. It is submitted however, that this is placing an inordinate amount of trust in future bureaucracies that may not have the disposition towards industry consultation that exists today.

The ability for a defence to be modified or removed by administrative action does not provide certainty for producers. We believe that drafting techniques exist that would ensure that standards and guidelines are not compromised and that defences carry through from standards and guidelines into the Act.

General

Our Association is aware of the full review of the Animal Welfare Act 2002 being undertaken by Minister for Primary Industries and Regional Development and was an active participant in the initial stakeholder deliberation in November 2017. Given this substantial review, the Animal Welfare Amendment Bill 2017 appears premature and may even undermine the broader review. We believe it would be more appropriate to postpone the Amendment Bill and include the contents in the substance and rationale of the major review. There has been no evidence that the existing Act is so inadequate that a piecemeal approach to amendments is justified.

Further the Amendment Bill was promoted as being necessary to implement standards and guidelines and it clearly has gone beyond that proposition.

WAPPA appreciates 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 me.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Jan T Cooper'.

Jan Cooper
Executive Officer