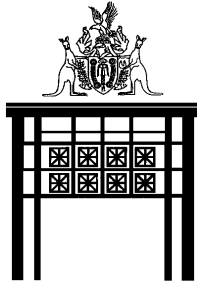


ANIMAL WELFARE GOVERNANCE SUB-COMMITTEE

Final Report

October 2011

Presented and ordered
to be printed by the
Legislative Assembly of the
Northern Territory
October 2011



LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

**COUNCIL OF TERRITORY CO-OPERATION
ANIMAL WELFARE GOVERNANCE SUB-COMMITTEE**

FINAL REPORT

OCTOBER 2011

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CHAIR'S FOREWORD

Since May the Animal Welfare Governance Sub-Committee of the Council of Territory Cooperation has considered submissions, conducted hearings, received briefings and visited Mataranka Station to hear about people's concerns with the Territory's animal welfare legislation and related procedures.

This information, together with related papers sought by the Sub-Committee from the Northern Territory Ombudsman, Charles Darwin University and government departments involved in animal welfare governance, provided the basis for the Sub-Committee's deliberations.

The Sub-Committee also received expert legal advice on animal welfare governance and approaches to companion animal management and control, which is included as an appendix to assist government in addressing all identified issues.

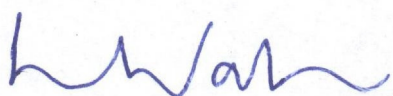
This report makes 21 recommendations to significantly improve the Territory's animal welfare legislative framework and its implementation and enforcement by government.

The Sub-Committee is concerned that the issues surrounding animal control in the Territory's remote communities are not being adequately addressed. It has made four recommendations specifically to prompt legislative change and resolve long-standing governance and resourcing issues in relation to companion animal management, welfare and control.

During its inquiry the Sub-Committee learnt of the distress its inquiry put on past and present employees of Charles Darwin University, Mataranka Station, Katherine Rural Campus and government departments. We are conscious of the ongoing concerns of many people touched by the livestock welfare issues at Mataranka Station.

The Sub-Committee thanks all witnesses who participated in the inquiry by attending hearings or providing submissions and acknowledges how valuable their input was in forming our understanding of what happened, how the current animal welfare governance framework operates and, importantly, what needs to change.

I thank my fellow committee members for their active interest and fulsome participation throughout the inquiry period and offer thanks also to the Secretariat for their hard work and diligence.



Lynne Walker
Chair

ANIMAL WELFARE GOVERNANCE SUB-COMMITTEE MEMBERS

Ms Lynne Walker, MLA Member for Nhulunbuy (<i>SUB-COMMITTEE CHAIR</i>)	Territory Labor
Ms Marion Scrymgour, MLA Member for Arafura	Territory Labor
Mr Gerry Wood, MLA Member for Nelson (<i>SUB-COMMITTEE DEPUTY CHAIR</i>)	Independent
Mr John Elferink, MLA Member for Port Darwin	Country Liberals
Ms Kezia Purick, MLA Member for Goyder	Country Liberals

SUB-COMMITTEE SECRETARIAT

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Principal Research Officer:	Ms Jan Whitehead
Research Officer:	Mr Simon Flavel (to 24 June 2011) Ms Alison Stirrup (from 27 June 2011)
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ACRONYMS

AMRRIC	Animal Management in Rural and Remote Aboriginal Communities
CDU	Charles Darwin University
Code of Practice or Code	<i>Australian code of practice for the care and use of animals for scientific research</i>
CTC	Council of Territory Co-operation
DHLGRS	Department of Housing, Local Government and Regional Services
DOR	Department of Resources
AEC	CDU's Animal Ethics Committee
KRC	Katherine Rural Campus
LGANT	Local Government Association of the Northern Territory
LIPs	Local Implementation Plans
MOU	Memorandum of Understanding
NHMRC	National Health and Medical Research Council
NRETAS	Department of Natural Resources, Environment, the Arts and Sport
RSPCA	Royal Society for the Prevention of Cruelty to Animals
Sub-Committee	CTC Animal Welfare Governance Sub-Committee
VET	Vocational Education and Training

LIST OF RECOMMENDATIONS

1. The *Animal Welfare Act* clearly identify agency administrative and enforcement responsibilities by stipulating that officers and inspectors refer substantiated complaints for investigation to the responsible agency identified in the *Administrative Arrangement Orders*.
2. Government policy reflects that a single agency is responsible for the *Animal Welfare Act* by stipulating that all investigations under the Act are referred to that agency.
3. The Act's time limit on commencement of proceedings against an offence be extended to at least two years.
4. The Animal Welfare Authority has appropriately skilled and qualified inspectors.
5. All government employees with an inspectoral role must be appropriately trained.
6. Develop and implement a whole of government protocol to investigating offences under Territory legislation by using appropriately trained people as expert investigators.
7. Amend the Act to give appropriate investigatory and monitoring powers to the Animal Welfare Authority and to other authorised officers.
8. The *Animal Welfare Act* clearly describes the Animal Welfare Authority's structure, role and enforcement provisions.
9. Government investigate ways to include all cattle stations, irrespective of their land tenure, under the monitoring provisions of the Pastoral Land Board.
10. Amended animal welfare legislation stipulate the current edition of relevant guidelines or codes of practice, rather than stipulating a specific edition.
11. Government policy reflect the need for all Territory government employees to report any instances of a potential breach of the Act.
12. The Act be amended to include provision for monitoring the compliance of animal ethics committees and that animal ethics committees regularly report to the regulatory authority.
13. The Sub-Committee reconvene in six months to scrutinise progress in addressing all recommendations in the report.
14. The resourcing of the administration of the animal welfare function be re-examined as part of any review of the legislation to ensure that the function is funded so that statutory responsibilities can be fulfilled.
15. The roles and responsibilities of the various agencies involved in animal welfare need to be clearly articulated in legislation.

16. An amended Act clarify the coverage of all teaching-related activities that need animal ethics authorisation.
17. The development of additional animal ethics committees be addressed by possibly using existing audit committees within departments.
18. Introduce a coordinated, uncompromising dog control program with the goal of decreasing the number of unhealthy dogs in the Territory.
19. The government immediately address the linkages between the *Animal Welfare Act* and local governments' responsibilities for companion animal welfare and control as part of reviewing the Act, including adequately resourcing any changes.
20. The Territory and local government bodies consult the community about the feasibility and desirability of separate legislation for companion animal management and control.
21. The Australian and Territory governments address as a priority the inadequate resourcing of animal welfare measures in Indigenous communities

1. INTRODUCTION

The Council of Territory Co-operation (CTC) is a Sessional Committee of the Legislative Assembly of the Northern Territory which was formed in October 2009 as part of the Independent Member for Nelson, Mr Gerry Wood's agreement with the Chief Minister.¹

Animal welfare governance reference

On 4 May 2011 the Legislative Assembly of the Northern Territory referred the following matters to the CTC for inquiry and report to the Assembly by the last sitting day in August:

as part of its current considerations of the administration and service delivery by the Department of Housing, Local Government and Regional Services, the CTC inquire into and report on animal welfare governance in the Northern Territory and various government departments that are associated with animal welfare, husbandry or research with particular reference to:

- a) the appropriateness and effectiveness of the current NT *Animal Welfare Act* and regulations and other relevant legislation including provisions in regard to prosecution of instances of animal neglect and cruelty and arrangements for the governance of animal ethics committees; and
- b) the processes and systems adopted by the Department of Resources and its predecessors, the Department of Housing, Local Government and Regional Services and its predecessors and the Charles Darwin University in relation to the recent investigations into animal welfare issues at the Charles Darwin University owned cattle station.²

The CTC established an Animal Welfare Governance Sub-Committee (the Sub-Committee) comprising the existing CTC members and the two members referred by the Assembly to work on animal welfare governance; the Members for Port Darwin and Goyder.³

Work Program

Through its inquiry the Sub-committee sought answers to a range of questions relevant to the following three themes:

1. Is the legislation for animal welfare relevant, contemporary and best practice.

¹ See earlier reports for more information about the CTC: <http://www.nt.gov.au/lant/parliamentary-business/committees/ctc/council-territory-co-operation.shtml>.

² Legislative Assembly of the Northern Territory (LANT), *Hansard*, 4 May 2011, 'Motion - Establishment and Appointment of a Select Committee on Animal Welfare Governance in the Northern Territory', <http://notes.nt.gov.au/lant/hansard/hansard11.nsf/WebbyDate/AC5D49F71F0FD2F7692578A200096F64>, accessed 27 June 2011.

³ LANT, *Hansard*, 5 May 2011, 'Motion - Membership of Council of Territory Cooperation', <http://notes.nt.gov.au/lant/hansard/hansard11.nsf/WebbyDate/D8A8F038797ECA7692578A2000D98D8>, accessed 27 June 2011.

2. Does the NT have the right legislative framework for animal welfare governance.
3. What were the failures in animal welfare governance systems and processes within and across government and Charles Darwin University.

The Sub-Committee included animal welfare concerns in the Territory's Indigenous communities in its animal welfare governance inquiry. It was determined that understanding how companion animal management priorities in the shires and in Local Implementation Plans (LIPs) relate to animal welfare governance as an integral part of its terms of reference.

Submissions

The Sub-Committee sought submissions (either oral or written) and received 11 written submissions. Oral submissions were taken through confidential briefings.

Papers

Before undertaking public hearings, the Sub-Committee sought all relevant papers relating to the treatment of cattle and horses at Mataranka Station and the administration of animal welfare governance from:

- the Northern Territory Ombudsman;
- Charles Darwin University (CDU);
- the Department of Housing, Local Government and Regional Services (DHLGRS); and
- the Department of Resources (DOR).⁴

These papers were then perused by Sub-Committee members as part of determining potential witnesses and to prepare for taking evidence during public hearings. When used directly in this report the papers are referred to as confidential briefing papers.

Hearings

Public hearings were held in Darwin, Katherine and Mataranka to give as many interested people as possible a chance to speak to the Sub-Committee. A list of public hearings and witnesses is at Appendix A and a list of tabled papers and questions on notice from the hearings is at Appendix B.

Wherever possible the Sub-Committee's witnesses appeared in public hearings, however some witnesses wanted to give their evidence confidentially (i.e. *in camera*). While the Sub-Committee preferred that hearings be open and transparent it also understood it wasn't always possible, and considered each confidentiality request on its merits.

⁴ The Department of Housing, Local Government and Regional Services (DHLGRS) and the Department of Resources (DOR) came into being following administrative changes announced 4 December 2009. To avoid confusion, in this report both departments and their predecessors are referred to using their current names.

The Sub-Committee determined that where required, information from confidential briefings (written and oral) and submissions be referred to in a way that does not identify the witnesses. Evidence has been taken from three witnesses in this manner.

Expert opinion

The Sub-Committee sought independent, expert legal advice on the Territory's animal welfare legislation and in particular, whether it is relevant, contemporary and best practice. This opinion, considered together with earlier government reviews of the existing *Animal Welfare Act*, assisted the Sub-Committee's determinations on the legislative framework and companion animal management and control. The legal opinion is at Appendix C.

Reporting

Parliament's reference of the animal welfare governance inquiry to the CTC included a reporting timeframe of the last sitting day of August 2011. The Sub-Committee's *Preliminary Report* was tabled in Parliament in August 2011 and provided a progress report on its work since receiving the reference. The Sub-Committee was granted an extension to its reporting time to October 2011 to allow it to take further evidence and comprehensively consider its findings before reporting.

This report is the Sub-Committee's final report and presents its findings on animal welfare governance in the Territory and makes recommendations on steps to improve the effectiveness of legislation and related systems and processes.

Structure of the Report

The Sub-Committee's final report responds to its terms of reference: to inquire into and report to the Assembly on the appropriateness and effectiveness of the Territory's animal welfare governance arrangements and the processes and systems of government agencies and CDU.

Chapter 2 of the report provides the context for Parliament's reference to the CTC. It gives a succinct history of the investigations into animal welfare issues at Mataranka Station in 2009.

The two subsequent chapters each consider the terms of reference 2(a) and (b). Chapter 3 discusses the existing legislative framework and makes recommendations to improve its effectiveness.

Chapter 4 examines the processes and systems followed by the two government agencies; DHLGRS and DOR and their predecessors, and CDU. This chapter also contains the Sub-Committee's findings about those processes and includes recommendations to ensure that the identified failures are corrected.

The final chapter looks at how companion animal welfare and control is managed in the Territory and makes recommendations to improve it.

2. INQUIRY CONTEXT

Background of complaints about cattle welfare

Starting in August 2009, complaints were raised within CDU about the condition and care of cattle at Mataranka Station, CDU's training facility. A timeline of events associated with the animal welfare concerns at the station is at Appendix D.

At the time, Mataranka Station was a commercially run cattle station leased from the Northern Territory Land Corporation as a pastoral training facility. There is no registered lease document for the property, however it is understood the station has been leased on similar conditions by CDU (and its predecessors) since Katherine Rural College became part of the university.¹

In September 2009 an anonymous complaint about the condition of cattle on Mataranka Station was made to the DOR livestock inspectors who, on investigating, believed they were looking at a possible breach of the *Animal Welfare Act*. The initial report within DOR, however, was not acted on and not forwarded to the Animal Welfare Branch within DHLGRS which had the primary responsibility for administering the Act.

A month later a complaint was emailed to a range of politicians and subsequently forwarded to the then Minister for Local Government, the Hon Rob Knight, MLA. This was then sent to the Animal Welfare Branch for immediate action. From this point the Animal Welfare Branch monitored the situation and DOR inspectors continued to conduct investigations and report to DHLGRS and CDU.

DOR inspectors advised that the cattle's condition was slowly improving and continued to monitor the station's livestock and advised the cattle station manager, DHLGRS and CDU's AEC.

In January 2010 the original complainant within CDU lodged a complaint with the Northern Territory Ombudsman's office about the treatment of cattle at the station and how CDU was managing the emerging situation.

The Ombudsman's report into the investigation of the complaint was tabled in Parliament in October 2010 and provides a detailed account of the investigation into the complaints about the cattle and CDU's management of the station. The Ombudsman made 16 recommendations to remedy the failures in CDU management of Mataranka Station and the operation of its AEC.²

¹ An external review of Mataranka Station states that government acquisition of the station occurred in the late 1980s with part of the station 'offered' to the Katherine Rural College as a training facility and that this was expanded in 1996-97. Katherine Rural College was subsequently renamed the Katherine Rural Campus (KRC) after becoming part of CDU. LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

² Northern Territory Ombudsman, *Report of Investigation into the Treatment of Cattle & Horses at Charles Darwin University Mataranka Station*, Volume 1, pp.18-21, <http://www.ombudsman.nt.gov.au/publications-reports/public-reports/>, accessed 9 May 2011.

The Ombudsman wrote separately to DHLGRS and DOR and their relevant Ministers to recommend changes needed to improve the administration of animal welfare responsibilities.

In addition to the Ombudsman's report, government and CDU commissioned reviews and/or reports on matters associated with the Ombudsman's investigation. The findings of those reports and reviews relevant to the Sub-Committee's inquiry are briefly described in the following sections in date order of being finalised.

Stockwell report

The Ombudsman states that Mr Tom Stockwell was first approached in October 2009 by a DOR inspector who was frustrated that he couldn't get anyone to listen to him. He sought Mr Stockwell's involvement in what was happening at Mataranka Station.³ Documents attached to the Ombudsman's report establish that late in October 2009, Professor Bob Wasson, the AEC Chair, sought Mr Stockwell's assistance to determine if a *prima facie* case existed for allegations about the management of cattle at Mataranka Station.⁴

Mr Stockwell, an experienced and qualified pastoralist and owner/manager of a number of cattle properties, found that a *prima facie* case existed for all five points raised in the investigated complaint. Mr Stockwell concluded that:

The management of a significant proportion of the livestock on Mataranka during the dry season of 2009 has been below any acceptable industry/community production and welfare standards.

While there appears to have been significant flaws in the overall strategic and operational management of Mataranka Stn leading up to this dry season (in 2008 in particular) thus leaving the cattle herd vulnerable to poor management, recent management decisions appear:

- haphazard at best;
- ineffective with respect to the ethical and moral demands of reasonable animal husbandry and welfare;
- almost certainly putting the people and organisation at high risk of being found culpable under the Animal Welfare Act; and
- economically unsuccessful with respect to significant loss of value of the herd and the subsequent requirement for crisis feed strategies.⁵

On receipt of the report in November 2009, CDU stood down the station manager, Mr Ian Gray, and sought his response to the Stockwell report. Following consideration of that comment, on recommendation of Professor Wasson, Mr Gray was reinstated as the Mataranka Station manager on 10 December 2009. The report remained an internal CDU document until provided to the Ombudsman in 2010.

Ombudsman's report

In January 2010 the complaint that initiated the Ombudsman's investigation in part said that cattle had been locked in paddocks without sufficient feed; reprisals were

³ Ombudsman, *Report of Investigation*, p.60.

⁴ Ombudsman, *Report of Investigation*, Volume 2, p.71.

⁵ Ombudsman, *Report of Investigation*, Volume 2, p.49.

taken against the complainant by CDU management; and there was ‘a huge cover-up’ by CDU and DOR.⁶

Other complaints to the Ombudsman raised concerns about the:

- lack of processes, plans, staff training and supervision;
- operations at Mataranka Station;
- qualifications, experience, training and performance of the station manager;
- conflict between the station manager and staff;
- a possible conflict of interest; and
- a cover-up.⁷

After receiving these complaints the Ombudsman decided to investigate the actions of CDU and its staff in relation to Mataranka Station and its care of livestock.⁸

A summary of the Ombudsman’s findings was damning of CDU’s management of the station and corroborated Mr Stockwell’s November 2009 findings:

...CDU's management of Mataranka Station caused conditions that put livestock...in a physically distressed state by failing to provide the fundamental necessities required to sustain life. In relation to Mataranka Station, evidence was found of serious neglect occurring in September and October 2009 and in May and June 2010...When the serious neglect of animals was made known to middle management and senior CDU staff in September 2009 action taken to remedy the suffering and neglect of the animals were tardy, inadequate and not proportionate to the degree of suffering of the animals.⁹

In responding to the Ombudsman’s report, CDU’s Vice Chancellor said in an all staff email:

The University’s actions with regard to the station are consistent with the key recommendations in the Ombudsman’s report, including:

- Reviewing the overall operations of Mataranka Station as a teaching facility and working cattle station.
- Finalising a comprehensive audit by Deloitte of financial management, planning and operation of Mataranka Station since 2008.
- Reviewing the role, composition and function of CDU’s Animal Ethics Committee.
- Reviewing the policy framework concerning grievance and complaints handling at CDU.
- Substantially increased investment in staffing, management and infrastructure support for Mataranka Station and the Katherine Rural Campus.¹⁰

CDU acknowledged that the Ombudsman found that the then former station manager had a primary role in the operational failures that led to serious animal neglect. It however believed that other factors also contributed to the outcome, including poor

⁶ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

⁷ Ombudsman, *Report of Investigation*, p.33.

⁸ Ombudsman, *Report of Investigation*, p.33.

⁹ Ombudsman, *Report of Investigation*, p. 5.

¹⁰ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

management practices and record keeping before the station manager was appointed in 2009.¹¹

AEC review

In February 2011 CDU's AEC was reviewed by an external panel in accordance with the requirements of the *Australian code of practice for the care and use of animals for scientific research* and also to consider the Ombudsman's recommendations in relation to the AEC.

The report made 21 recommendations, most of which were accepted by CDU and a process was established to guide their implementation. Two are of particular relevance. On training the panel said:

More training needs to be undertaken in regard to animal ethics issues and processes...Training should be made available to AEC members, researchers from within the University and from outside organisations that use the AEC, as well as managers and staff of animal facilities such as Mataranka Station and Katherine Rural College. This training will address the process of lodging and obtaining AEC approval and will stress that **no research of teaching involving the use of animals can be conducted without prior approval of the AEC.**¹²

On a recommendation by the Ombudsman for CDU to review all procedures and processes at Mataranka Station, the review panel supported the recommendation in its entirety and added:

Adequate records must be maintained at Mataranka Station and at any other facility where animals are used for teaching or research. All facility managers should have copies of licenses and permits for all approved protocols for use of animals for teach or research at that facility...No animals should be released or accepted into a facility by any facility manager for teaching or research purposes if the manager has not cited and been given a copy of a signed permit approving such use.¹³

Ray Murphy advice

DHLGRS employed a lawyer and former police prosecutor, Mr Ray Murphy, in November 2010 to investigate the Ombudsman's report to identify and advise on breaches of the *Animal Welfare Act* that could lead to prosecution. Mr Murphy's initial advice was provided in January 2010, however additional information was provided in his final advice of March 2011. The Minister, the Hon Malarndirri McCarthy, MLA publicly released both pieces of advice in April 2011.¹⁴

In his initial advice Mr Murphy said he understood he was to:

- identify what offences may have been committed under the Act;
- identify if CDU and AEC procedures satisfied statutory requirements; and

¹¹ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

¹² LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers. Original's emphasis.

¹³ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

¹⁴ Northern Territory Government (NTG), Minister for Local Government, *Media Release*, 'Mataranka Animal Welfare Advice Released', 7 April 2011, <http://www.newsroom.nt.gov.au/index.cfm?fuseaction=viewRelease&id=8061&d=5>, accessed 7 April 2011.

- advise on any viable prosecutions arising from the inquiry.¹⁵

Mr Murphy identified that at the time there were four issues within the 12 month time limit for prosecutions to commence. They included licensing and permit issues, a complaint from students and matters arising from an AEC inspection report. The complaint and the AEC inspection issues were received in May and June 2010 respectively.¹⁶

Mr Murphy said CDU had not committed an offence by using Mataranka Station as premises for teaching or research between December 2008 and January 2010 without a permit due to the circumstances surrounding the breach. Mr Murphy identified that the AEC wrongly thought that approval for teaching or research projects were the same thing as permits to conduct teaching or research. As the Animal Welfare Authority contributed to this misunderstanding, Mr Murphy viewed the breaches were not in the public interest to prosecute.¹⁷

The final advice was delayed to give Mr Murphy time to contact and interview all students who lodged the complaint in May 2010. In his January advice Mr Murphy noted that the limitation period to commence a prosecution from the offences would expire in April 2011.¹⁸

Mr Murphy advised that the no matters arising from the May 2010 complaint by students and the June 2011 AEC inspection report should proceed to prosecution. He considered that there were insufficient or no grounds to prosecute and in one case an uncertain expectation of successful court action.¹⁹

Both pieces of advice highlighted the flaws in the department's administration of the Act and made a series of recommendations to improve the Act, its administration and AEC procedures.²⁰

Mataranka Station review

An external review was conducted on the operations of Mataranka Station as a semi-commercial enterprise within CDU. A final report was presented to CDU in December 2010 and also provided to the Ombudsman. The report was subsequently updated with additional information in May 2011.²¹

The following 'weaknesses' were identified by the review:

- Previous management of the station had not led to industry best practice.
- Fencing and waters were inadequate to effectively use native pastures.
- Record keeping on the station was inadequate.
- Reporting through CDU networks was inadequate.

¹⁵ Murphy, R, 'Breaches of the Animal Welfare Act during 2009 & 2010 at Mataranka Station', letter of advice to DHLGRS, 22 January 2011, p.1.

¹⁶ Murphy, 'Breaches of the Animal Welfare Act', pp.1-2.

¹⁷ Murphy, 'Breaches of the Animal Welfare Act', pp.2-3.

¹⁸ Murphy, 'Breaches of the Animal Welfare Act', pp.13-4.

¹⁹ Murphy, R, 'Prosecution for offences committed at Mataranka Station during 2010', 22 March 2011, pp.2-6.

²⁰ Murphy, 'Prosecution for offences', pp.16-7.

²¹ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

- There was limited understanding of the station within the previous CDU management team.
- It was difficult to monitor performance remotely.
- The station's financial performance relies on DET funding.²²

The review found that despite Mataranka Station's reputation deteriorating because of conditions imposed on it since the Ombudsman's investigation, there was continued support for the station as a training venue. It was noted that the Ombudsman and the Mataranka Station Advisory Committee found that the station had at times 'been stocked beyond its capacity, causing the reported animal difficulties'.²³

²² LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers. 'DET funding' relates to funding from the Department of Education and Training.

²³ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

3. IS THE LEGISLATIVE FRAMEWORK RELEVANT, CONTEMPORARY AND BEST PRACTICE?

Summary of findings

The Sub-Committee found the existing animal welfare legislation deficient in promoting animal welfare and inadequate for investigation and enforcement of its provisions. An opportunity exists now for the Territory to lead the country by developing a robust framework that addresses the Territory's circumstances. The following provides the focus of the Sub-Committee's concerns.

- The 12 month time limit to commence prosecution unnecessarily limits government's response to investigate possible breaches of the legislation.
- The confusion about which agency was responsible for investigating breaches of the legislation demonstrates that administrative level agreements are not robust.
- There is currently no legislative requirement for monitoring of an animal ethics committee and this needs to be remedied through legislative change.
- The role of the Animal Welfare Authority is not clearly stipulated in the Act.
- Powers of officers and inspectors under the Act are insufficient.
- There are many regulatory roles across government that the Sub-Committee identified as inadequately regulated by sufficiently experienced or trained investigators.
- Resourcing for monitoring existing and future legislative requirements also needs to be addressed.

Legislation summary

Animal Welfare Act

The Territory's *Animal Welfare Act* was commenced in early 2000 and reviewed in 2007 by an external consultant and in 2009 by government. Unlike other jurisdictions' animal welfare legislation, the Territory's Act has not been regularly amended, other than for minor aspects on five occasions. The Sub-Committee was advised that there have been about 10 prosecutions under the Act, with three current prosecutions for alleged breaches.¹

The Act's objectives are to ensure the humane treatment of animals, to prevent cruelty to animals and to promote community awareness about animal welfare.² The terms 'humane' and 'cruelty' are not currently defined in the Act, however, an act of cruelty includes:

¹ See Appendix C.

² Northern Territory of Australia (NTA), *Animal Welfare Act*, s3.

- (a) an act that causes an animal unnecessary suffering
- (b) an act that causes an animal suffering and is unreasonable in the circumstances;
- (c) treatment that is inhumane in the circumstances.³

The above quote is illustrative of the reactive nature of the Act. Unlike other animal welfare legislation, the Act does not impose a duty of care on animal owners/carers. Rather, it is designed to punish acts of cruelty or neglect after the acts have occurred. Other legislation and the agreed national direction take proactive approaches by requiring those who care for animals to take all reasonable measures to ensure the animal's welfare.⁴

The Act allows for the establishment of an Animal Welfare Advisory Committee to advise the Minister about issues in the administration of the legislation.

The Act provides for the appointment of an Animal Welfare Authority who is usually a senior officer in the department responsible for administration of the Act. The Animal Welfare Authority carries out a range of functions, including appointing animal welfare inspectors and officers and issuing licenses to teaching and research facilities, however no monitoring role is stipulated.

Animal Welfare Regulations cover use of electrical control devices, animal ethics committees, the establishment and role of the Animal Welfare Advisory Committee and the issuing of infringement notices

The Animal Welfare Branch in DHLGRS administers the Act and represents the Territory nationally on animal welfare legislation and policy.

Authorised inspectors and officers from DOR are appointed by the Animal Welfare Authority to assist in administration and enforcement of the Act in relation to commercial livestock. DOR staff may also provide technical advice in relation to livestock in more domestic circumstances, e.g. horses.⁵

Livestock Act

The Territory's *Livestock Act* seeks to promote the livestock and associated industries through various means including protecting the health and welfare of livestock by establishing standards and procedures.⁶ DOR administers the Act and represents the Territory nationally in relation to the Act and livestock policy.

There is no legislative linkage between the *Livestock Act* and the *Animal Welfare Act*, however as noted earlier, DOR staff assist in the *Animal Welfare Act's* administration and enforcement.

³ NTA, *Animal Welfare Act*, s.6(3).

⁴ See Appendix C.

⁵ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

⁶ NTA, *Livestock Act*, s.3.

Pastoral Land Act

The *Pastoral Land Act* provides for the granting of pastoral leases and for their administration, management and monitoring.⁷ The Act provides for the establishment of a Pastoral Land Board with a range of administrative and monitoring functions including:

- (f) to monitor, supervise or cause to be carried out work in relation to the rectification of degradation or other damage to pastoral land;
- (g) to monitor the numbers and effect of stock and feral and other animals on pastoral land;⁸

Pastoral Land Regulations provide for the administration of pastoral leases and for pastoral land monitoring.

As Mataranka Station is owned by the NT Land Corporation and leased to CDU, it, like Indigenous owned cattle stations, is not subject to the provisions of the *Pastoral Land Act*. The Sub-Committee heard that if the Pastoral Land Board had been overseeing Mataranka Station the animal welfare concerns would not have happened because it would have been inspected regularly.

The Sub-Committee believes the conditions on cattle stations, not held through pastoral lease and therefore not subject to the monitoring provisions of the *Pastoral Land Act*, also need oversight. Options to allow for similar-styled monitoring of all cattle stations needs to be investigated by government. The Sub-Committee considers that in the interim, one way could be for all cattle stations to be included in the functions of the Pastoral Land Board.

Review of *Animal Welfare Act*

The *Animal Welfare Act* was reviewed in 2007 by consultant firm, Kanzen Partners, who provided a report on identified issues and made recommendations on changes to the legislation. In 2009 the Department of Local Government and Housing⁹ sought public comment on matters raised in a discussion paper developed from some of the 2007 review's recommendations.¹⁰

The then Minister for Local Government, the Hon Rob Knight MLA, approved the preparation of a Cabinet Submission to consider amendments to the *Animal Welfare Act* in November 2009.¹¹ A new Minister for Local Government was appointed on 4 December 2009.¹² During the August 2011 hearing, the new Minister, the Hon Malarndirri McCarthy MLA, said she was unaware of the Kanzen Partners' report.¹³ It

⁷ NTA, *Pastoral Land Act*, s.4.

⁸ NTA, *Pastoral Land Act*, s.29.

⁹ Previous name for the now Department of Housing, Local Government and Regional Services.

¹⁰ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

¹¹ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

¹² NTA, *Media Release*, 'New Cabinet Responsibilities', 4 December 2011,

<http://www.newsroom.nt.gov.au/index.cfm?fuseaction=viewRelease&id=6355&d=5>, accessed

4 December 2009.

¹³ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', 2 August 2011, p.6.

appears the earlier review of the Act was not part of any briefing to the Minister when she took over responsibility for the Act.

DHLGRS' response to a question from the Sub-Committee about any subsequent work done in relation to the review of the Act suggests that no further work occurred on the review.¹⁴ In June 2011 DHLGRS staff said the department was awaiting the outcome of national standards being agreed and now, for the outcome of the Sub-Committee's inquiry.¹⁵

The 2007 review identified a range of issues including some that if addressed may have averted some of the failures surrounding the response to animal welfare concerns at Mataranka in 2009. Three examples follow:

1. The review identified there was confusion between the role of separate agencies responsible for administering the Act. If this had been acted on earlier a clearer approach to prosecution could have occurred in September 2009 when complaints were initially investigated by DOR.
2. The review recommended that the time to commence a prosecution be increased to 18 months. It is clear that the twelve month time limit stopped prosecution being pursued in the Mataranka case.¹⁶
3. The review identified that people appointed as animal welfare inspectors are not required to have any qualifications to enforce the provisions of the Act. It recommended that the Act be amended so that the Animal Welfare Authority has the power to specify skills, qualifications or experience required of inspectors.

Training is now being provided to animal welfare officers and inspectors, however this remains outside the Act's requirements. The Sub-Committee agrees with the review that the skills required of animal welfare authorised officers need to be included in the legislation, irrespective of any other developments about fulfilling regulatory functions.

As part of considering the earlier review of the Act, the Sub-Committee considered government's significant regulatory responsibilities, as part of meeting legislative requirements. Evidence to the Sub-Committee by the Minister, Chief Executives and agencies' staff demonstrated they had no understanding that the legislation required an investigation, or how to conduct it. It is estimated that there are about 100 similar regulatory roles across government that are separate to Police.

¹⁴ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', DHLGRS, 30 June 2011, p.10, Answer to question on notice.

¹⁵ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', DHLGRS, 30 June 2011, p.11. This statement was also contained in other DHLGRS' information provided to the Sub-Committee.

¹⁶ This was the main reason cited by government for not prosecuting, NTG, 'Mataranka Animal Welfare Advice Released'.

A submission to the Sub-Committee put it this way:

...the *Animal Welfare Act* needs to be supported through appropriate resourcing as well as supporting policies and internal guidance, promoting a culture of enforcement. A governance framework for animal welfare is more than just the Act itself, it includes the resources, processes and procedures that have been put in place to support the enforcement of the Act as well as the culture of the jurisdiction responsible for implementing the Act.¹⁷

The cost of training everyone with a regulatory role and keeping the training current could mean a significant cost to government. It may mean it becomes an impractical solution to meeting the need of having appropriately trained people to be expert investigators.

The issue of a culture of enforcement needs to be addressed urgently across government and one way to do that would be to centralise the function. A solution might be to establish a centralised, professional service that can assess and advise on investigations. This could be either as part of government or outsourced, perhaps to retired police officers, or other suitably experienced or qualified people.

Another area that needs to be addressed in the Act is the lack of clarity about roles, responsibilities and powers particularly in relation to the Animal Welfare Authority and animal welfare inspectors. As noted earlier, there is also no monitoring function attached to the Authority.

The role of Animal Welfare Authority needs to include responsibility for enforcement of the Act and the powers to do it. Similarly, the powers and functions of people authorised to be animal welfare inspectors or officers. The Sub-Committee received a submission that argued for an independent statutory authority to administer the animal welfare legislation, rather than an appointed senior departmental officer.¹⁸

One model that the Sub-Committee encourages government to consider is in the *Parks and Wildlife Conservation Act*, where conservation officers have the powers and duties of Police.

Recommendations

1. The *Animal Welfare Act* clearly identify agency administrative and enforcement responsibilities by stipulating that officers and inspectors refer substantiated complaints for investigation to the responsible agency identified in the *Administrative Arrangement Orders*.
2. Government policy reflects that a single agency is responsible for the *Animal Welfare Act* by stipulating that all investigations under the Act are referred to that agency.
3. The Act's time limit on commencement of proceedings against an offence be extended to at least two years.

¹⁷ LANT, Animal Welfare Governance Sub-Committee, Submission 5.

¹⁸ LANT, Animal Welfare Governance Sub-Committee, Submission 5.

4. The Animal Welfare Authority has appropriately skilled and qualified inspectors.
5. All government employees with an inspectoral role must be appropriately trained.
6. Develop and implement a whole of government protocol to investigating offences under Territory legislation by using appropriately trained people as expert investigators.
7. Amend the Act to give appropriate investigatory and monitoring powers to the Animal Welfare Authority and to other authorised officers.
8. The *Animal Welfare Act* clearly describes the Animal Welfare Authority's structure, role and enforcement provisions.
9. Government investigate ways to include all cattle stations, irrespective of their land tenure, under the monitoring provisions of the Pastoral Land Board.

Animal ethics committees

The Act regulates the use of animals in research and training by providing a licensing framework. People or organisations intending to use animals in research or teaching require a license, which is issued by the Animal Welfare Authority. Once licensed, people employed or engaged by the licensee must apply for a permit to conduct teaching or research involving animals. Permits are granted by the licensee's animal ethics committee.¹⁹ The Territory's only animal ethics committee is CDU's Animal Ethics Committee (AEC), however the legislation allows licensees to use other jurisdictions' animal ethics committees.

The Act requires that licence holders using premises for teaching or research to establish and maintain an animal ethics committee in accordance with the Regulations. Regulation Five stipulates that an animal ethics committee has the powers and functions specified in the 6th edition of the *Australian code of practice for the care and use of animals for scientific research* (Code of Practice/ Code).

This edition of the Code of Practice was rescinded by the National Health and Medical Research Council (NHMRC) in June 2004.²⁰ The NHMRC says rescinded publications no longer represent its position on matters covered in the publication. This means that since 2004, the Territory legislation stipulated the powers and functions of an animal ethics committee were those specified in non-existent guidelines.

¹⁹ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

²⁰ National Health and Medical Research Council (NHMRC), *Australian code of practice for the care and use of animals for scientific purposes*, 6th edition, September 1997, <http://www.nhmrc.gov.au/guidelines/publications/ea1>, accessed 9 September 2011.

The current Code of Practice specifies the responsibilities of institutions and investigators and details the terms of reference, membership and operation of animal ethics committees and the use of animals in teaching. There is considerably more detail in the seventh edition than the earlier Code of Practice.²¹

The Ombudsman's investigation identified that the AEC administered its responsibilities using the current (2004) Code.²² The Minister recognised that the AEC working to a different Code of Practice to that stipulated in the Act as something needing correction.²³ A submission suggested that the legislation should stipulate the current version of the Code of Practice.²⁴

It is unknown why a particular Code was stipulated in the Act, other than it was the existing Code when the Act was commenced. In any review of the Act the Sub-Committee recommends stipulation of a Code be included in such a way as requiring the current nationally agreed edition of a Code.

Recommendation

10. Amended animal welfare legislation stipulate the current edition of relevant guidelines or codes of practice, rather than stipulating a specific edition.

Animal welfare monitoring

What occurred at Mataranka has highlighted that the Territory legislation and regulation was deficient. A submission said that the Act is weak in terms of the time needed to lay charges, of powers of inspectors and penalties.²⁵

Public comment from the 2007 review by Kanzen Partners included there was a perception of lack of enforcement of the Act with instances raised that suggested failure to take action where apparent abuse had occurred. Public submissions to the review also called for a more effective enforcement regime to ensure legislative provisions were applied. It was noted that there were few prosecutions launched and less were successful.²⁶

The review also noted that a range of Territory and Australian government officers come into contact with or observe animals and their care and management, as part of their duties. Cases had occurred where officers either did not report or may not have reported instances of possible cruelty or abuse. The review recommended that the Act be amended to require all government employees to report any instances of potential breach of the Act.²⁷

²¹ NHRMC, *Australian code of practice for the care and use of animals for scientific purposes*, 7th edition, 2004, <http://www.nhmrc.gov.au/guidelines/publications/ea16>, accessed 5 May 2011.

²² Ombudsman, *Report of Investigation*, p.119.

²³ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', Minister Malarndirri McCarthy, 2 August 2011, p.12.

²⁴ LANT, Animal Welfare Governance Sub-Committee, Submission 5.

²⁵ LANT, Animal Welfare Governance Sub-Committee, Submission 10.

²⁶ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

²⁷ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

A submission to the Sub-Committee similarly suggested that all relevant agencies should be encouraged to respond to and address animal welfare incidences and that referral procedures be developed to ensure matters attended to by government agencies are received, acknowledged and acted on.²⁸

The Minister told the Sub-Committee she recognised as part of the fallout from Mataranka Station complaints, that the existing legislation could not address the recognised issues with CDU's AEC.²⁹ The Minister said:

I am very troubled by the fact that an Animal Ethics Committee can be in the Territory and not really be monitored or really regulated in any way by our own Act in the Northern Territory. It disturbs me to the point where I will be writing a submission to the current inquiry in terms of the Code...that the Animal Ethics Committees around Australia work towards...I will be writing ... expressing my concern that there needs to be lessons learnt from our experience here in the Northern Territory at a national level.³⁰

The Sub-Committee was advised the *Animal Welfare Act* takes a minimalist approach to animal ethics committees, doing little more than allowing for their establishment and maintenance. Expert advice to the Sub-Committee said the approach falls well short of best practice legislation. Other jurisdictions' legislation makes provision for accountability and scrutiny of licence-holders and animal ethics committees. Best practice dictates that legislation provide for a governance structure in which there is appropriate oversight of licences and animal ethics committees.³¹

Recommendations

11. Government policy reflect the need for all Territory government employees to report any instances of a potential breach of the Act.
12. The Act be amended to include provision for monitoring the compliance of animal ethics committees and that animal ethics committees regularly report to the regulatory authority.

National strategies

(Australian Animal Welfare Strategy National Consistency Project)

The Australian Animal Welfare Strategy was jointly developed by national, state and territory governments, industry and the community to provide an understanding of Australian animal welfare and to outline future directions for improvement.³² The

²⁸ LANT, Animal Welfare Governance Sub-Committee, Submission 5.

²⁹ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', Minister Malarndirri McCarthy, 2 August 2011, p.12.

³⁰ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', Minister Malarndirri McCarthy, 2 August 2011, p.15.

³¹ See Appendix C.

³² Department of Agriculture, Fisheries and Forestry (DAFF), *The Animal Welfare Strategy*, revised edition June 2008, p.3, <http://www.daff.gov.au/animal-plant-health/welfare/aaws>, accessed 5 May 2011.

primary goal of the Strategy is to develop nationally consistent legal arrangements as part of future animal welfare legislation across Australia.

A cornerstone of the effort to improve consistency of animal welfare outcomes and arrangements is to revise model codes of practice and convert them into national animal welfare standards and guidelines. The intention is then to regulate the nationally endorsed standards in a consistent way in each state and territory.³³

The 'National Consistency Project' has been ongoing for some time and 23 elements of consistency are agreed. The plan is to have a consistent approach to legislation rather than a uniform system based on standard legislation. The following are examples of the consistent approach being sought:

- legislation that is 'equivalent' in relation to an agreed list of terms and definitions;
- legislation in all jurisdictions that provides for an agreed suite of regulatory powers for inspectors/authorised officers to ensure consistency of audit and enforcement;
- sanctions and penalties for non-compliance with standards that are similar or equivalent;
- orders restricting a person's ability to own or be in charge of animals in one jurisdiction to be recognised and enforceable in other jurisdictions; and
- similar minimum competencies for authorised officers under jurisdictions' legislation.³⁴

The 2007 review found that the Territory's animal welfare legislation was reasonably consistent with the national approach but there were some areas that would need to be amended. Most particularly the review identified the need for creation of the capacity to accept enforceable nationally agreed 'standards' – rather than the current unenforceable 'codes of practice'.³⁵

Following the department's review in 2009, the government was moving towards amending the Act in a range of ways. DHLGRS recommended the creation of the capacity to incorporate enforceable standards for industries and activities and provisions to enhance the capacity of the Act to operate as part of a consistent national approach to animal welfare.³⁶

The former Director Water Safety and Animal Welfare, Ms Meryl Gowing, said that before she left the department the review of the Act was going to incorporate the agreed national standards which all jurisdictions have agreed. The issue will then become how compliance with the standards will be monitored and enforced. She said when she was involved, South Australia, Tasmania and the Northern Territory were arguing for consideration of regional variation around the standards, because what is

³³ DAFF, 'Consistency the Key – Animal Welfare Law', http://www.daff.gov.au/animal-plant-health/welfare/animal_welfare_in_australia/consistency_the_key_-_animal_welfare_law, accessed 14 September 2011.

³⁴ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

³⁵ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

³⁶ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

reasonable in New South Wales may not be reasonable in central Australia. She forecast that while the standards seem to be happening very slowly when they come to the Territory there will be a remarkable change in how some things will need to be done.³⁷

The Sub-Committee notes the negotiated national approach to animal welfare but does not believe any national measures should be able to undermine the Territory's capacity to effectively respond to its unique circumstances.

³⁷ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', Ms Meryl Gowing, 4 July 2011, p.21-2.

4. ADDRESSING THE FAILURES IN SYSTEMS AND PROCESSES WITHIN GOVERNMENT AND CDU

Summary of findings

The Sub-Committee received a lot of evidence about what happened at Mataranka Station during 2008, 2009 and 2010. Some of this related to the number of cattle that died. Considerable media comment has been made about the possible numbers of cattle that died during 2009.

Based on comment and evidence, the Sub-Committee believes the actual number of cattle that died cannot be known with any reliability as the records were too poor. The Sub-Committee received evidence that gave conflicting estimates of the number of cattle deaths ranging from about 200 to over 1,000. Most of the estimates were based on various assumptions, including birth rates. The Sub-Committee considers that whichever way it is looked at, the cattle were poorly managed resulting in lower birth rates and/or a higher death rate.

The priority was to understand why it occurred so that lessons can be learnt and steps can be taken to address any outstanding issues. In particular, the Sub-Committee wants to see the legislation and procedures made sufficiently strong enough to ensure this cannot happen again.

In response to its terms of reference to inquire into the processes and systems adopted by government and CDU, the Sub-Committee's finds the following contributed to failure to lawfully investigate animal welfare concerns at Mataranka Station in 2009.

- Relevant decision makers tried to solve the problem, rather than seeing that the law may have been broken and that the legislation required an investigation to be undertaken. The decision by DHLGRS to not pursue an investigation when the first DOR officer had seen grounds to investigate amounts to poor administration.
- DHLGRS failed to recognise what was a serious breach of the *Animal Welfare Act* and did not seek appropriate advice to investigate despite the Ombudsman's Office insisting that an investigation and prosecution were warranted. DHLGRS appeared to be totally unprepared to deal with a prosecutorial matter and this ultimately led to very poor advice being provided to the Minister.
- The failure by Minister Malarndirri McCarthy, to direct an investigation, let alone a prosecution, reflects poor judgement at Ministerial level. The Sub-Committee notes the Minister's apology for these failures.
- The Sub-Committee queries government's commitment to fully enforcing the Act across the Territory given the current inadequate resourcing for this. The Sub-Committee is concerned there may be a culture in government agencies that results in the legislation not being enforced in Indigenous communities.

- Any non-statutory administrative arrangement between departments, whether it is a memorandum of understanding or something else, lacks the ability to be enforced.
- Government employees with inspectoral roles were not adequately trained to undertake their regulatory functions.
- Resourcing of the animal welfare function in DHLGRS was totally inadequate and contributed to the department not fulfilling its responsibility for administering the Act.
- The former Minister for Local Government, Rob Knight, failed to implement the results of the 2007 review of the *Animal Welfare Act*. If he had done so an investigation and prosecution in relation to Mataranka Station may have occurred.
- CDU failed to manage the situation both at Mataranka Station and with the AEC, despite there being early and consistent indications of inadequate administration of both.
 - In 2008 animal welfare concerns were raised at Mataranka Station that should have alerted CDU to how livestock was managed at the station.
 - All levels of management of Mataranka Station, Katherine Rural Campus (KRC) and more broadly within CDU failed in their responsibilities to care for the livestock in their control. The Mataranka Station manager and his managers failed to take all necessary steps to ensure the livestock's welfare and did not take all necessary steps to ensure that CDU senior management was told about the decay of the conditions at the station. The deteriorating relationships between staff at the station was part of the decay in conditions that should have alerted senior managers to take immediate action.
 - CDU managers failed in their duty of care to staff in not recognising and addressing the rapidly deteriorating situation at Mataranka Station.
 - When CDU did move to fix the problems, its motivation appeared to be the bad publicity rather than the animal neglect.
 - The Sub-Committee was told that Mataranka Station was being run as a commercial operation in addition to being a training facility. Instructions to staff at Mataranka Station that required animal welfare as a primary concern conflicted with a cattle station being managed as a commercial venture.

The Sub-Committee wants to ensure that government appropriately responds to its recommendations and is therefore recommending that it reconvene in six months to check on action taken to address the Sub-Committee's findings.

Recommendation

13. The Sub-Committee reconvene in six months to scrutinise progress in addressing all recommendations in the report.

Animal welfare governance processes in 2009

A submission to the Sub-Committee said:

...it is clear that numerous failings by both sectors of the NT Government and Charles Darwin University contributed to the extraordinarily unacceptable welfare conditions at Mataranka.

Other submissions similarly highlighted that the Act is not supported by adequate procedures to ensure that those with responsibilities under the Act understand their respective roles and responsibilities and the process to escalate an animal welfare issue.¹

DOR's Chief Executive, Mr Richard Galton, in providing a briefing of his department's role and functions in animal welfare also gave a good overview of animal welfare governance processes followed in 2009. Mr Galton described his department's role as 'an inspectorate role' and made the following points:

- Animal welfare is regulated by the *Animal Welfare Act* and administered by DHLGRS. The Act primarily deals with cruelty and neglect.
- DOR administers the *Livestock Act* which includes standards and guidelines which can regulate livestock industry standards.
- DOR officers had limited responsibility for the animal welfare of livestock arising from their appointment under the *Animal Welfare Act* as authorised officers or inspectors.²
- Their roles were to inspect livestock for the purpose of examining animals, inspect property, report on matters and take action to alleviate suffering of an animal. While performing this role officers and inspectors were subject to direction by the Animal Welfare Authority.
- Under direction and on request, the primary industry division of DOR supported the Animal Welfare Branch by investigating livestock welfare complaints, gathering information, issuing notices, reporting breaches to the Animal Welfare Branch and provided advice on care and treatment of livestock.

¹ LANT, Animal Welfare Governance Sub-Committee, Submissions 3, 4, 5.

² Officers must be veterinarians and are appointed under s58, while DOR's bio-security officers are appointed under s57 of the *Animal Welfare Act*.

- DHLGRS and DOR signed a memorandum of understanding (MOU) in August 2010 that formalised roles, responsibilities and processes for the Animal Welfare Branch's administration of the *Animal Welfare Act*.

Prior to the MOU's formalisation, DOR issued written policies and procedures which articulated the role and procedures for responding to animal welfare incidents. Forms attached to these procedures were the forms used by animal welfare officers and inspectors investigating Mataranka Station in September 2009. The procedures have since been updated to reflect the MOU.³

Dr Brian Radunz, DOR's Chief Veterinary Officer, clarified the process in 2009 as:

...to agree that there should be a prosecution...so we would have collected evidence...I would then have passed that on to our legal officers to assess that and she would then pass it on to the Department of Local Government because Local Government is the agency responsible for the Animal Welfare Act.⁴

The Director of the Water Safety and Animal Welfare Branch in DHLGRS said, and the Sub-Committee has seen a number of documents that corroborate, that DHLGRS' animal welfare inspectors' work related to companion animal welfare complaints (i.e. dogs and cats). At that time livestock complaints were referred to DOR and wildlife and feral animals to Parks and Wildlife. Ms Gowing said she relied on DOR's officers and inspectors' expertise to determine if livestock was suffering.⁵

DHLGRS

DHLGRS is the department responsible for administering and enforcing the *Animal Welfare Act*. The Sub-Committee received ample evidence to conclude that the department failed in those responsibilities. There are a range of contributing reasons, but the principal issues were ineffectual administration of the Act and inadequate resources for animal welfare.

Administration of the Animal Welfare Act

The Director Water Safety and Animal Welfare at the time of animal welfare complaints at Mataranka Station, Ms Meryl Gowing, told the Sub-Committee that the initial investigations and reports that DOR undertook in September 2009 were not sent to the Animal Welfare Branch. The branch did not know about the complaints until an email was forwarded from the Minister's office in early October 2009. When the Branch sought DOR's involvement to investigate, DOR inspectors said they had already been there three times. The Director was not told that the first DOR officer to inspect had recommended prosecution. Managers at DOR however subsequently told her the initial advice was an 'over-reaction'.⁶

³ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', DOR, 30 June 2011, pp.4-7, and tabled paper AWG03/09.

⁴ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', DOR, 3 August 2011, pp.7,9.

⁵ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', Ms Meryl Gowing, 4 July 2011, pp.5-6 and confidential briefing papers.

⁶ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', Ms Meryl Gowing, 4 July 2011, pp.5-7.

Ms Gowing said there was never a decision within the department to not prosecute as the information the department was getting from DOR, who they relied on for advice about livestock, was that it wasn't serious. She said she first realised it was serious at the first meeting with the Deputy Ombudsman, Ms Julie Carlsen, on 25 May 2010.⁷

...the reason I say I don't believe there was ever any intention not to prosecute and nobody told me not to or not to consider it, was that I sat with the Ombudsman's investigator and I really was quite appalled at what I was hearing. Ms Carlsen asked me if we would prosecute and I said if we could get the evidence then we would...I don't believe there was ever any intention not to prosecute if we got the evidence.⁸

DHLGRS Chief Executive, Mr Ken Davies, said there was never a decision made not to prosecute because:

...we did not have anything that was sitting in our Animal Welfare Branch in terms of a proper file that was substantive enough to put to either Solicitor for the NT or the DPP that would lead to a prosecution...⁹

When asked why there weren't efforts made to build 'a proper file' Mr Davies said there had been no direct report of specific animal welfare issues at Mataranka Station to DHLGRS and therefore there was no file. He said the department was therefore relying on using the information in the Ombudsman's report to conduct an investigation.¹⁰

The Sub-Committee asked why an investigation was not commenced then when there was still time to. Ms Gowing said a separate official investigation was never commenced in the department because:

We rely on our expert witnesses and there was never a recommendation coming back from DoR and the Chief Veterinary Officer that this was a serious situation and in fact at least once I was told it wasn't serious and there was never any indication coming back from ... or recommendation coming out of the Department of Resources saying that it was a serious offence.¹¹

The Animal Welfare Authority when the Mataranka Station complaints surfaced, Ms Trish Angus, said she and the current Authority, Ms Fran Kilgariff, met the Deputy Ombudsman who listed her concerns about the deficiencies in the *Animal Welfare Act* and the Mataranka Station investigation. The Deputy Ombudsman was concerned that the department did not have the information she had and asked if the department would be willing to prosecute once it had received the report. She was told that if there was evidence that would help towards a prosecution, it would be

⁷ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', Ms Meryl Gowing, 4 July 2011, p.8.

⁸ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', Ms Meryl Gowing, 4 July 2011, pp.8-9.

⁹ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', DHLGRS, 30 June 2011, p.14.

¹⁰ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', DHLGRS, 30 June 2011, p.15.

¹¹ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', Ms Meryl Gowing, 4 July 2011, pp. 9-10.

considered and that the department was already seeking legal advice about addressing issues that might arise from the Ombudsman's investigation.¹²

The department's legal advice was about the Animal Welfare Authority's obligation to prosecute alleged offences under the *Animal Welfare Act*. The advice addressed a number of the issues about processes surrounding animal welfare administration at the time, including:

- The Act does not stipulate an appropriate person to bring a prosecution, so it could be open to a DOR officer to do so;
- Any proper decision about prosecution can only be made following a thorough investigation;
- A range of factors might affect the agency's capacity to fully investigate a complaint, including resources;
- If the Animal Welfare Authority did not have the requisite knowledge, experience or resources to deal with a particular matter it could seek assistance from other agencies to conduct the investigation, such as DOR or the Police Force.¹³

Ms Gowing said she believed that by the time the Animal Welfare Branch was aware of the Mataranka complaint, the situation had moved into animal management, rather than animal welfare, but that she felt it was important that the branch continued to monitor the situation closely.¹⁴ It wasn't until the Deputy Ombudsman told her all the information DOR had that Ms Gowing knew to ask for the photos that had been taken. It was at this time that she also received CDU information related to Mataranka Station.¹⁵

Ms Gowing said she had no training in investigation but the animal welfare inspector had some training. This was recognised as needing to be corrected and before she left the branch she arranged for animal welfare staff to have Certificate IV Investigation training. Ms Gowing agreed with the Sub-Committee that the lack of training contributed to the investigative process being flawed.¹⁶

A number of submissions to the Sub-Committee argued that government must ensure authorised staff are appropriately trained. One submission from an experienced livestock veterinarian said that even with training and expertise the ability to accurately assess and deal with animal welfare situations were some of the most difficult aspects of their professional careers.

¹² LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', DHLGRS, 30 June 2011, p.15.

¹³ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', DHLGRS, 30 June 2011, pp.12-13, Response to question on notice.

¹⁴ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', Ms Meryl Gowing, 4 July 2011, p. 11.

¹⁵ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', Ms Meryl Gowing, 4 July 2011, pp. 17-8.

¹⁶ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', Ms Meryl Gowing, 4 July 2011, p. 12.

The recognition of what is admissible and not admissible in court should be taught to any officer with the potential of having to give evidence before they require it.¹⁷

Ms Angus said that one of the things raised by the Deputy Ombudsman in their meeting in June 2010 was that there were poor processes and communication channels between DHLGRS and DOR that contributed to confusion between both the agencies. Ms Angus said DHLGRS had already started to develop the MOU to more clearly delineate roles and responsibilities of both agencies.¹⁸

The Sub-Committee asked how the division of responsibilities for dogs and cats and livestock came about before the development of the MOU. Ms Gowing said it was 'practice' and agreed that it was identified in 2007 when the Act was reviewed that the division was contributing to confusion about roles and responsibilities.¹⁹

Ms Gowing said she thought DOR was concerned that if it isn't mandated in the legislation, animal welfare inspectors and officers could be drawn into having to work on animals other than livestock and that this was one of the drivers for the MOU in 2004. She said she took responsibility for deferring the signing of the MOU because of the national level discussions going on at a senior level that could have affected which agency was responsible for animal welfare. The function is in primary industry in other jurisdictions.²⁰

Ms Gowing said what had happened was in part attributable to the fact that the branch found out about Mataranka Station far too late to collect the type of evidence that would have been available. DOR officers and inspectors were already there and they were the branch's experts saying it was under control and was not as serious as first reported. The branch then took a monitoring role to ensure nothing else went wrong.²¹

Mr Davies said in response to continued questioning by the Sub-Committee about why an investigation wasn't started earlier:

...with the benefit of hindsight, I wish we had...there is no doubt given what we now know and our investigative capacity that we now have in our Animal Welfare Branch the situation like this...would not happen again.²²

Ms Gowing appeared to have a good understanding that the legislation required alleged offences to be prosecuted and if animal owners tried to improve the situation that could be considered by the magistrate, but it shouldn't stop the prosecution

¹⁷ LANT, Animal Welfare Governance Sub-Committee, Submission 4.

¹⁸ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', DHLGRS, 30 June 2011, p.15.

¹⁹ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', Ms Meryl Gowing, 4 July 2011, pp. 13-4.

²⁰ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', Ms Meryl Gowing, 4 July 2011, pp. 13-4.

²¹ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', Ms Meryl Gowing, 4 July 2011, p. 16.

²² LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', DHLGRS, 30 June 2011, p.19.

occurring. She said she knew this wasn't the DOR view because they have an educative and improvement role with livestock owners.²³

Resources

The Sub-Committee asked Ms Gowing about the priority animal welfare had in the department. She said animal welfare wasn't a high priority and because at the time things were being managed it was in some ways 'out of sight, out of mind'. She was pleased that animal welfare has now been given some prominence.²⁴

Documents provided to the Sub-Committee show that the animal welfare function within DHLGRS and its predecessors was reviewed in 2007 and 2010. The 2007 review found that resourcing was insufficient, that responsibilities within the unit needed 'realignment' and urged for the development and implementation of MOUs with agencies providing animal welfare services.²⁵

Submissions to the Sub-Committee argued that it was crucial for adequate funding and resources to ensure that the provisions of the Act can be effectively enforced. This included the need for sufficient numbers of inspectors so that animal welfare complaints are looked into promptly and investigated fully.²⁶

The 2010 functional assessment of the Animal Welfare branch was undertaken by PriceWaterhouseCoopers. It noted that while a position was redesigned to be a full-time inspector and the MOU agreed with DOR, the resourcing of animal welfare was then only 1.8 fulltime equivalents with reliance on water safety staff to fill the gaps. Staff said the current level of resourcing meant they could not effectively respond to all complaints, provide comprehensive training and development, or investigate high risk complaints in teams of two with additional resources 'borrowed' from water safety.²⁷

The 2010 review recommended that resources be increased; the development of a robust governance framework that included management meetings, data collection, performance reporting and issue escalation; and development of a panel contract of professional service providers and scope of services.²⁸

The review said that staff within the branch did not have the skills or qualifications to undertake the full range of tasks required and it would not be cost effective to resource the branch to a level where it could. Expert advice was needed on animal condition, circumstances surrounding neglect or abuse, remedies or treatments and professional opinions for preparing prosecutions. While some of the listed skills could be accessed through the MOU with DOR it was acknowledged this will not always be

²³ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', Ms Meryl Gowing, 4 July 2011, p.25.

²⁴ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', Ms Meryl Gowing, 4 July 2011, p.25.

²⁵ The agencies included DOR, Police, the Department of Natural Resources, Environment, the Arts and Sport (i.e. Parks and Wildlife), shire and municipal councils, the RSPCA and private vets. LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

²⁶ LANT, Animal Welfare Governance Sub-Committee, Submission 5.

²⁷ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

²⁸ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

the case. Hence the recommendation for a panel contract to regularise the existing ad hoc process of seeking private services.²⁹

Mr Davies said that resourcing of animal welfare had been increased and the investigative capacity of the branch added to by four new positions. A training course has been tailored specifically for the Act and the course will also be offered to DOR and Department of Natural Resources, Environment, the Arts and Sport (NRETAS) staff.

The department said it would now be able to respond very quickly to investigating any animal welfare complaints and immediately seek any expert assistance about animal welfare needed from DOR.³⁰ The Sub-Committee however notes that the approval by DHLGRS Chief Executive of additional resourcing was 'subject to review at the end of 2011'.³¹

Recommendation

14. The resourcing of the administration of the animal welfare function be re-examined as part of any review of the legislation to ensure that the function is funded so that statutory responsibilities can be fulfilled.

DOR

Some DOR staff were appointed as animal welfare officers and inspectors and therefore had specific unlimited powers under sections 62, 66 and 67 of the Act to enter premises, to inspect and alleviate suffering of animals. Policies and procedures had been developed by DOR to help animal bio-security officers implement the agreed processes in the field.³²

The first DOR animal welfare officer to inspect the cattle at Mataranka Station, Dr John Eccles, said his understanding of the process was to send reports to the Animal Welfare Branch but to also keep his manager informed. However, no documentation was provided to the Sub-Committee that this process was followed. While DOR staff were kept up to date on the progress of the inspections, the reports were not forwarded to DHLGRS until after the Animal Welfare Branch was made aware of the complaints.³³

Dr Brian Radunz said DOR's major focus was always to improve the welfare of animals, and then if there was a serious matter there should be a recommendation to prosecute. He added that CDU gave assurances that it was dealing with the concerns about the condition of the cattle:

²⁹ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

³⁰ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', DHLGRS,

30 June 2011, pp.30, 33-34.

³¹ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

³² LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

³³ The first three reports were sent to the Animal Welfare Branch on 12 October 2009. LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

My view...is that sending someone to court in one, two or three years' time doesn't do very much to improve the welfare of the animals at the time.³⁴

The process followed within DOR in 2009 to investigate and report on livestock welfare complaints was, if reported directly to the department, to investigate and report to the Senior Veterinary Officer. A quarterly summary report was sent to the Animal Welfare Branch. The report was only sent to the Animal Welfare Branch if the complaint was received through the branch.³⁵

In September 2009 the complaint went directly to DOR and therefore the reports stayed within the department although were also discussed with CDU staff. The Sub-Committee is particularly concerned about what happened to the first report prepared by Dr Eccles that recommended prosecution and the action taken flowing from that report.

Documentation from CDU shows that CDU's Vocational Education and Training (VET) Director, Dr Brian Heim, sought to exclude Dr Eccles from further involvement in the complaints about cattle at Mataranka Station.³⁶ Responding to questions from the Sub-Committee about why DOR replaced Dr Eccles as the officer investigating the complaint, Dr Radunz said:

It was done to take the heat out of the conflict, to have another person doing the investigation, another person who was experienced and skilled, it was just to take the heat out of the situation but still do the work effectively.³⁷

There were no further recommendations to prosecute on DOR reports after the initial report on 4 September 2009. Dr Eccles continues to believe a prosecution should have been commenced at that time.³⁸

Dr Radunz said he did not support a prosecution under the section of the Act recommended by Dr Eccles and the main focus was to treat the animal welfare of the animals at Mataranka Station.

So my focus was to get actions in place at the high management level within the University to make sure that there were sufficient resources applied. The regional staff should deal with the farm manager and co. but I saw my role to elevate it to the higher levels to make sure that there was sufficient resources applied to fix the problem.³⁹

³⁴ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', DOR, 30 June 2011, p.13.

³⁵ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', DOR, 30 June 2011, pp.13-4, response to question on notice. Also LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', DOR, 3 August 2011, p.3.

³⁶ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

³⁷ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', DOR, 30 June 2011, p.15.

³⁸ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', DOR, 30 June 2011, p.17; 'Transcript of Proceedings', DOR, 3 August 2011, pp.5,11.

³⁹ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', DOR, 3 August 2011, pp.4-5.

The Sub-Committee asked why the prosecution couldn't have been pursued at the same time as improving the condition of the cattle. Dr Radunz said the main focus was to improve the cattle's condition and prosecution isn't the most effective way to deal with the problem and wasn't DOR practice.⁴⁰

Mr Toby Gorringe, a VET lecturer at Mataranka Station, said in response to being asked about what went wrong and what needed to be fixed, said the system started to fail when the first DOR Officer who inspected the station and recommended prosecution was prevented from charging CDU.⁴¹

Within DOR there is recognition that the investigation, actions and decision-making in regards to Mataranka Station could have been improved by necessary investigative skills and administration of the Act. This recognition was part of the motivation behind more detailed documentation of roles and responsibilities as part of the MOU.⁴²

Dr Radunz said one of the things he's learned from what happened at Mataranka is that when an action is required, notices should be issued to define what needs to occur, and if the action doesn't occur then prosecution should occur. While that provision is provided for in the Act, it wasn't part of the process at the time.⁴³

The Sub-Committee asked about the department's role in enforcing the legislation and knowledge about the appropriate investigatory process. Dr Radunz agreed that despite its responsibility in enforcing the *Livestock Act*, there wasn't a prosecutorial culture in the department. He could not recall any prosecutions under livestock legislation.⁴⁴

Dr Radunz believes the introduction of standards that are required to be met, or compliance with a written notice, would improve the chances of prosecuting livestock welfare cases, as it would remove trying to define 'furry' words like 'neglect' and 'cruelty'.⁴⁵

DOR Chief Executive, Mr Richard Galton, said part of the problem for agencies like DOR is the separation of the roles or industry advocacy and regulation in environments where the functions are in one, small department with few animal welfare incidents. The other issue is that community standards about animal welfare have increased. He said the problem is how to construct the system to have the right checks, balances and support in place.⁴⁶

⁴⁰ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', DOR, 3 August 2011, pp.4-8, 11-14.

⁴¹ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', Mr Toby Gorringe, 2 August 2011, p.15.

⁴² LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

⁴³ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', DOR, 3 August 2011, pp.8-9.

⁴⁴ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', DOR, 3 August 2011, p.15.

⁴⁵ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', DOR, 3 August 2011, p.17.

⁴⁶ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', DOR, 3 August 2011, pp.34-5.

Dr Radunz said he thought the preferred model for animal welfare governance is to expand the Animal Welfare Branch within local government to include people with livestock industry knowledge. This would mean DOR would then deal with cattle husbandry and land transport standards. He said the alternate model is to have a separate unit in either department, but the Animal Welfare Branch should have the prosecutorial role. He said he thought it would be useful to have technical skills and also prosecutorial skills together as a team.⁴⁷

Coordination across government

The Sub-Committee asked the Mataranka Station manager at the time of the 2009 complaints, Mr Ian Gray, about the apparent multiple reporting he was required to undertake to DOR, CDU and the AEC. He said he had found the reporting requirements overwhelming. While there were multiple demands for reports his primary concern was for the cattle, so any reporting was secondary to that.⁴⁸

Sub-Committee evidence shows that nobody in the departments knew how to do an investigation and the departments did not effectively communicate with each other. In DOR, despite there being an early recognition of a high chance of an offence and a recommendation to take action, senior management intervened and overrode that recommendation, concentrating instead on working to improve the condition of the cattle.⁴⁹

An MOU was finally agreed by both departments in August 2010. DOR states that it had been trying to draft the MOU since August 2006, however due to delays within the Animal Welfare Branch, despite numerous attempts, the MOU was not finalised. It was understood by DOR officers that the MOU was not discussed at a high level in DHLGRS. In June 2010 after discussion between the two Chief Executives, there was an agreement to use the existing procedures as the basis for developing the MOU with some additional details on roles and responsibilities, including the initiation of prosecutions. Within a relatively short time, the MOU was agreed and signed.⁵⁰

The current Director Water Safety and Animal Welfare, Mr Merg Mikaelian, said there are 34 appointed animal welfare officers and inspectors across government, local government bodies and non government organisations like the RSPCA. An MOU, similar to that one agreed with DOR was being developed with Police. He said:

I can clearly say the first point of contact with my agency and Department of Resources is working really well, and that's just come about even from current incidents at the moment with the cattle that are waiting in holding yards around from the export ban that we're working very closely, and that's on a daily basis and I think that MOU has helped, and I believe if we get it in place with NRETAS, NT Police, I think it's going to assist us even further.⁵¹

⁴⁷ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', DOR, 3 August 2011, pp.28-9, 33-4.

⁴⁸ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', Mr Ian Gray, 31 August 2011, p.19.

⁴⁹ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', Ms Sue Edwards, Mr Toby Gorringer, 2 August 2011, p.33-34.

⁵⁰ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

⁵¹ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', DHLGRS, 30 June 2011, p.31.

The Sub-Committee questions the strength of the MOU as any administrative agreement is only as good as the checks and counterchecks to make the agreed procedures workable and enforceable.

Recommendation

15. The roles and responsibilities of the various agencies involved in animal welfare need to be clearly articulated in legislation.

CDU

The Sub-Committee identified a range of issues with CDU management that contributed to the animal welfare concerns at Mataranka Station in 2009:

- The expectation that the station be run as a commercial operation and also meet CDU's VET priorities.
- Inadequate resourcing and infrastructure at Mataranka Station;
- Significant interpersonal rivalry and staff management issues at the station that were not recognised as critical to effectively address; and
- Non-adherence to and/or difficulty in adhering to CDU processes and systems, typified by poor record keeping and reporting.

Commercial cattle station

The contradiction between running a cattle station as a commercial enterprise at the same time operating it as a training facility contributed to what occurred at Mataranka Station in 2009. An independent review of Mataranka Station made the following point about the two requirements:

A recent study of the cattle industry in the Katherine region concluded that the majority of cattle producing businesses in the Katherine region were not economically sustainable. It is against this commercial background and the expectations of a university facility that the management by CDU of a cattle station in the Mataranka area should be considered.⁵²

The apparent balancing-act between the two roles is evident in the job description for the station manager's position in 2009. It describes Mataranka Station's operations as 'commercially based farming' and required the manager to:

Ensure that the operations reflect a balance to meet both training and commercial needs.⁵³

The Mataranka Station manager at the centre of the animal welfare complaints, Mr Ian Gray, said:

⁵² LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

⁵³ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

...at no point in time was I advised by my managers or management of the University that Mataranka Station was being held to a higher standard than the industry norm.⁵⁴

CDU's Vice Chancellor, Professor Barney Glover, said the university did not view the station as a commercial cattle station but it was a 'working cattle station' which was needed to provide the training for the pastoral industry.⁵⁵

Since the Ombudsman's investigation and an independent review by Dr Doug McGhie, the CDU Council has decided that managing Mataranka Station's commercial cattle operations is outside CDU's core business and represents an 'unacceptable risk.'

CDU has commenced negotiations with the land owner, the Northern Territory Land Corporation, to change the lease so another party can take over the commercial cattle operations while still allowing CDU to use the station for training purposes.⁵⁶

Resourcing and infrastructure

Mr Gray gave evidence that after becoming aware of the deteriorating condition of the cattle he had tried to acquire additional feed and additional staff, however the university's processes often meant there was a delay in actually acquiring the additional resources.⁵⁷ Dr Brian Heim said Mr Gray appeared to have difficulty with some CDU processes.⁵⁸

The Sub-Committee asked if the problem was insufficient feed, not enough funding to buy additional feed or not enough staff to put the feed out. Mr Gray said it was a combination of the issues:

- CDU's purchasing system actually delayed getting feed;
- carriers couldn't be relied on to efficiently deliver the feed to the station;
- there was insufficient funding remaining in the budget;
- the tractor needed replacing in 2005 but was still there and not working in 2009; and
- recruitment practices meant it took too long to replace staff.⁵⁹

Mr Gray also said there was little access to reliable forms of communication at the station, other than a mobile phone which had very poor reception. He said it took over 12 months to get this improved through installation of a satellite dish.⁶⁰

⁵⁴ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', Mr Ian Gray, 31 August 2011, p.3.

⁵⁵ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', CDU, 30 June 2011, p.46.

⁵⁶ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

⁵⁷ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', Mr Ian Gray, 31 August 2011, p.3.

⁵⁸ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', Dr Brian Heim, 31 August 2011, p.6.

⁵⁹ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', Dr Brian Heim, 31 August 2011, pp.6-7, 31-2.

⁶⁰ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', Mr Ian Gray, 31 August 2011, p.26.

Mr Gray said he thought at least two full-time staff members as general hands were needed to help the manager do what was needed at Mataranka because the station manager also managed the Brahman Stud at KRC where a lot of time should have been spent.⁶¹

Mr Gray remained convinced that he provided sufficient hay based on NHRMC guidelines for the energy and protein requirements of the cattle, 'bearing in mind that that is a maintenance ration, not a fattening ration.' He added that there may have been a slightly higher mortality rate than three per cent (considered the 'normal' death rate for cattle during the 'dry') due to being understaffed.⁶²

The various enquiries conducted since the Ombudsman's investigation identified that the station was over-stocked at times which contributed to the condition of the cattle in 2009. CDU recognised the under-resourcing and poor infrastructure at Mataranka Station and says it has spent over \$0.5 million in improving infrastructure, particularly increasing and improving water sources and fencing. Smaller paddocks were created and new fences installed to allow better control of grazing and stock sold to reduce grazing pressure.⁶³

Staff management

Witnesses from Mataranka Station state that the manager, Mr Gray, while at first seemed fine, became unapproachable, wouldn't speak to people and on occasions threatened staff members.⁶⁴ Mr Gorringe, a VET lecturer at the station said his inability to work with Mr Gray affected his ability to teach.⁶⁵

Mr Gray said some staff at Mataranka did not support him, were counterproductive and their actions of not helping to provide water and or feed when they saw they were needed, contributed to the condition of cattle at the time.⁶⁶

While there is evidence of Mr Gray's poor people management skills, the Sub-Committee also has evidence from other station employees that he was considered one of the better station managers.⁶⁷

CDU provided information on management processes for Mataranka Station for about three years leading into 2009, flowing from the 2005 decision to include KRC as part of the VET group and the station as a University Business Enterprise. As the station and KRC were 'specialised operations' they were attached to the Office of the Chief Financial Officer to ensure appropriate planning and reporting occurred.

⁶¹ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', Mr Ian Gray, 31 August 2011, p.24.

⁶² LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', Mr Ian Gray, 31 August 2011, p.34.

⁶³ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

⁶⁴ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', Ms Sue Edwards, 2 August 2011, pp.5, 8.

⁶⁵ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', Mr Toby Gorringe, 2 August 2011, p.20.

⁶⁶ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', Mr Ian Gray, 31 August 2011, pp.18, 20, 23.

⁶⁷ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', confidential briefing.

Under this plan, the Mataranka Station manager became part of the KRC management team and the KRC management team was involved in the cattle station operations. However, both had separate reporting lines. The Chief Financial Officer visited the station and KRC to monitor their management, with CDU records showing these visits occurred on four occasions between February and early May 2009. Only one of these visits occurred when Mr Gray was the manager. Management responsibilities for the facilities was transferred to VET in August 2009.⁶⁸

Mr Gray's earlier comments show that he felt unsupported by CDU. Mr Gray and Dr Heim in their responses to the Stockwell Report⁶⁹ said Mr Gray inherited a number of serious issues in May 2009 and sought to make decisions with little or no support from his manager, the Chief Financial Officer.⁷⁰

CDU's Vice Chancellor said after concerns were raised at Mataranka Station in 2009 he decided to move responsibility for the station to the VET Director (located at KRC) to allow for higher level oversight and to provide management that was closer to Mataranka.⁷¹

In February 2010, CDU sought independent assessment and advice on bullying accusations and ways to improve the KRC culture. While the bullying allegations were not substantiated by evidence, the consultant's report discussed KRC and ways it could improve. The consultant, Mr Walter Bellin, identified understaffing and overly time consuming recruitment practices as contributing to low morale at KRC.

During his investigation he said most people at KRC felt the separation of the station from KRC was a mistake that fostered a 'them and us' attitude between KRC and the station. The same people said the problems at the station had started long before Mr Gray took over as station manager.

They felt that if Dr Brian Heim had still had ultimate direct line management authority over the station, the problems which gradually developed – leading to a crisis in September 2009 – would have been less likely to occur.⁷²

The report identified that Mr Gray's 'difficult' management style was because of poor time management, organisational skills and communication abilities.

The Sub-Committee's considerable evidence on the emerging situation at Mataranka Station in 2009 shows that CDU's response to and management of the situation was particularly poor and failed to identify and therefore address the many issues.

Processes and systems

Monitoring protocols for Mataranka Station and KRC in September 2009 state that the health and welfare of animals used in teaching and research must be the primary concern for all staff at the two facilities.

⁶⁸ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

⁶⁹ Report undertaken for CDU and included in the Ombudsman's report, Volume 2.

⁷⁰ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

⁷¹ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', CDU, 30 June 2011, p.5.

⁷² LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

As a teaching and research institution, CDU should be leading the way in livestock practices and procedures. All staff members have a duty of care to report any instances where they may feel that the health, well-being or welfare of one or more animals has been compromised.⁷³

The protocols go on to specify monitoring and reporting requirements with those issues considered as not complying with animal welfare standards to be reported to the AEC. Senior CDU management was to be notified of potential animal welfare issues by the AEC Chair.⁷⁴

A VET lecturer raised his concern with an appropriate manager in late August 2009 about the condition of cattle in Highway Paddock (on Mataranka Station). However, internal documents from CDU show that no concerns about animal welfare were raised with senior management or the AEC until DOR advised the station of a complaint received from a concerned member of the public.

Mr Gray said that when he started at the station in May 2009 records were not up to date.⁷⁵ The Sub-Committee heard from the Auditor-General, Mr Frank McGuinness, that there were no reliable records at Mataranka Station and the records were so poor the new manager had to start record keeping 'from scratch' indicating that the records had been poor for some time.⁷⁶

Mr McGuinness said the audit of the station indicated there were several issues with CDU's management of the station. One was the distance of Mataranka from CDU at Casuarina which has an entirely different focus to that in Katherine and Mataranka, and the second was that CDU accepted on face value the information coming from the station which was totally reliant on the station manager.⁷⁷

CDU was asked why and how record keeping practices were allowed to become so poor. The CDU Vice Chancellor, Professor Barney Glover, said as soon as he was aware of the problem steps were taken to improve record keeping at Mataranka Station. He acknowledged that the poor records had hindered the university itself getting accurate information but that the establishment of the Mataranka Station Advisory Committee has helped to regularise both record keeping and the monitoring of the station.⁷⁸

AEC

The AEC's role is to oversee the licensing of teaching and research in accordance with the Regulations which require it to be established and maintained in accordance

⁷³ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

⁷⁴ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

⁷⁵ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', Mr Ian Gray, 31 August 2011, p.27.

⁷⁶ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', Mr Frank McGuinness, 29 June 2011, pp.3, 10-11.

⁷⁷ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', Mr Frank McGuinness, 29 June 2011, pp.12-3.

⁷⁸ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', CDU, 30 June 2011, p.4.

with the Code of Practice. The AEC's functions are to issue permits and inspect licensed premises twice a year.⁷⁹

At the time of the Mataranka Station complaints, the AEC's practice was to not issue permits to individuals when it approved a project as it assumed that people were automatically allowed to conduct teaching and research because the project had AEC approval.⁸⁰

As a teaching and research facility Mataranka Station required a licence to operate but it was not part of the CDU licence until January 2010 when this oversight was corrected. This issue together with the conflict of interest of the AEC Chair also being the Deputy Vice Chancellor (Research) were highlighted by the Ombudsman's report.⁸¹ The Sub-Committee concentrated its inquiry into the administration and processes of the AEC and how it responded to the concerns about the condition of cattle in September 2009.

Professor Barney Glover said that as soon he became aware of the condition of the cattle he referred it immediately to the AEC Chair to take necessary action. Dr Cathy Shilton, a DOR employee and veterinary member of the AEC said her memory was that the AEC was told at a meeting around August/September 2009 of a serious welfare issue at Mataranka Station. Dr Shilton said when the AEC was told about it the issues were already being addressed and didn't see any reason 'to pull their permits'.⁸²

Professor Bob Wasson, the AEC Chair, said at the AEC's first inspection of the station, there was no hay stored in the shed and that :

We were told that it had been used up but there was a problem of getting hay out at that point, even the new hay because the tractor had broken down and one of our first...recommendations...was [for the university] to buy a new tractor, which [it] did.⁸³

This further supports some of the station manager's claims discussed earlier about the ineffective systems and inadequate infrastructure, but also clarifies that the AEC's focus was to try 'fix the problem' – buy hay, get a new tractor and get some help to distribute the hay.

Professor Wasson said while the AEC was not the manager of the station the first inspection was a crisis inspection and there was a need to get the station to alleviate the animals' distress immediately. After that the AEC tried to find out what exactly had happened, however he felt they never fully got to the bottom of it.⁸⁴

⁷⁹ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

⁸⁰ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

⁸¹ Ombudsman, *Report of Investigation*, pp.293, 13-4,126.

⁸² LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', CDU, 30 June 2011, pp. 14-5.

⁸³ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', CDU, 30 June 2011, p. 24.

⁸⁴ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', CDU, 30 June 2011, p. 25.

Dr Shilton said the AEC became aware that DOR was not recommending prosecution and it had allayed the AEC's concerns about what was going on. She said:

...we knew the whole process was underway and decisions were being made between inspectors and the Animal Welfare Authority...⁸⁵

However, two other members of the AEC, Professor Wasson and Ms Deborah Brackenreg said there was no definitive statement from DOR about prosecution to the AEC. An email to the AEC Executive Officer from the Animal Welfare Branch in DHLGRS about possible prosecution prompted the Vice Chancellor to attempt to contact the relevant Minister, unsuccessfully, to explain how the university was addressing the problems.⁸⁶

The Sub-Committee was told that when the AEC visited the station to conduct an inspection, they did not question or try to speak to the person who made the complaint, who was still on the station. Evidence was also provided that AEC inspections were not given the full picture of what was occurring at the station:

When they get there you end up taking them for a drive where all the cattle are good. Then they'd go home and write up their reports...all they did was drive down the yard which is only half a kilometre away from the house. Not once did they come and see me.⁸⁷

AEC members seemed unsure of the procedure when someone, other than CDU, who is teaching or researching using animals has claims of misconduct against them. Professor Glover said he didn't think it had ever happened but that there would be an investigation. Dr Shilton said it hadn't arisen other than at Mataranka Station but the procedure would be an investigation to substantiate the claim and then the Chair would communicate the issue with the relevant institution.

If it was a major issue that is a welfare or a cruelty issue the Animal Ethics Committee could take it straight to the Animal Welfare Authority.⁸⁸

The Ombudsman made detailed recommendations about the AEC, most of which CDU asked the review of the AEC to examine and advise on.⁸⁹ The review was the usual cyclic AEC review but also considered the matters raised by the Ombudsman. It identified issues about administrative support for the committee and changes being made to address those issues, principally the recruitment of an animal welfare officer.⁹⁰

⁸⁵ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', CDU, 30 June 2011, pp. 30-1.

⁸⁶ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', CDU, 30 June 2011, pp. 31-3. The Vice Chancellor's attempt to contact 'the relevant Minister' is listed in a chronology of events as occurring on 7 October 2009 in the Ombudsman's report, Volume 2, p.7.

⁸⁷ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', Mr Toby Gorringer, 2 August 2011, p. 28.

⁸⁸ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', CDU, 30 June 2011, p. 36.

⁸⁹ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', CDU, 30 June 2011, pp. 35-6.

⁹⁰ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', CDU, 30 June 2011, pp. 36-7.

The role of the animal welfare officer is to support and inspect facilities and develop standard operating procedures for animals used for teaching or research. The additional support provided by the animal welfare officer is also expected to lessen the burden on the AEC's Executive Officer. Professor Glover outlined that the AEC is developing a user pays model for cost recovery for external agencies that it is planned to provide additional resources to properly support the AEC.⁹¹

The AEC's role is to consider permit applications for research that uses animals and then monitor the research by inspecting the associated facilities. The Sub-Committee asked CDU representatives about the regularity of inspections of facilities that are not part of CDU. Dr Shilton said the AEC tries to conduct inspections annually, but because the AEC is mostly volunteers it is sometimes difficult to conduct the inspections as planned. Dr Shilton said there had never been any major issue where a facility required closure.⁹²

A submission said the role of the AEC was small because the AEC did not know the full extent of the problems at Mataranka and did not view its role to manage animal welfare issues. The AEC did not have the experience or expertise to handle the issues that arose and considered its powers were limited to removal of research permits.⁹³ This opinion was reinforced by other evidence to the Sub-Committee that showed the AEC had no animal welfare complaint handling process and no agreed non-compliance (with permit requirements) procedures.⁹⁴

An independent review of the AEC was conducted in February 2011 and made 21 recommendations:

- to improve the committee structure, constitution, reporting lines and operation matters, including animal ethics training for researchers and academics and for AEC members;
- to respond to the Ombudsman's recommendations;
- on changes that may be needed to the legislative framework.

The review found that the workload of the AEC was unreasonable and unsustainable and that the AEC was not given sufficient recognition or standing within the culture of CDU which added to the committee's workload.⁹⁵

The review noted that what arose at Mataranka Station was an example of the impossible task the AEC had, given the number and distant locations of facilities that were required to be monitored stating that they lack enough qualified people to carry out the required inspections.⁹⁶

⁹¹ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', CDU, 30 June 2011, pp. 37.

⁹² LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', CDU, 30 June 2011, p. 38.

⁹³ LANT, Animal Welfare Governance Sub-Committee, Submission 10.

⁹⁴ LANT, Animal Welfare Governance Sub-Committee, confidential briefing.

⁹⁵ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

⁹⁶ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

Schools and animal ethics committees

During its inquiry the Sub-Committee sought clarification about the position of schools that use animals in teaching. Documents provided to the Sub-Committee show this issue was being addressed by the Animal Welfare Authority as part of examining requirements of animal ethics committees under s43 of the Act.⁹⁷

In response to legal advice and following a prosecution moratorium, DHLGRS liaised with all license holders to ensure all people employed by them conducting teaching or research programs have permits to do so. The Department of Education and other departments and organisations were advised in April 2011 of the need to establish arrangements with an animal ethics committee and ensure that relevant people hold authorised permits and projects are approved by an animal ethics committee.⁹⁸

In June Professor Barney Glover told the Sub-Committee:

The current Act provides an exemption from being licensed to educational institutions if they're not undertaking scientific activities. So it's a matter of the definition of "scientific", for the purposes of interpreting whether educational institutions are required to have coverage. So it's for teaching related activities, and I think this is an area which does need sharpening and clarity.⁹⁹

The Sub-Committee notes that the Act does not define 'scientific' but the national Code, which the Act requires any animal ethics committee to follow, defines scientific activity and purposes as activities to acquire, develop or demonstrate knowledge, including teaching.¹⁰⁰ The AEC review noted that until 2008/2009 the Territory did not consider teaching activities as coming under the legislative requirements.¹⁰¹

DHLGRS Chief Executive, Mr Ken Davies, told the Sub-Committee that the Department of Education had recently said it had legal advice that Taminmin High School did not require a license to use animals. Mr Davies said because the Act does not define scientific teaching purposes there will be differing interpretations and it is proposed to amend the Act to remove that uncertainty.¹⁰²

The Sub-Committee agrees that the Act needs clarification about animal ethics coverage for all teaching-related activities. It is particularly concerned about the application of the Act to practices like work experience as part of school or training requirements.

⁹⁷ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

⁹⁸ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

⁹⁹ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', CDU, 30 June 2011, p. 40.

¹⁰⁰ NHRMC, *Australian Code of Practice*, p.4.

¹⁰¹ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

¹⁰² LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', DHLGRS, 30 June 2011, p. 24.

Recommendations

16. An amended Act clarify the coverage of all teaching-related activities that need animal ethics authorisation.
17. The development of additional animal ethics committees be addressed by possibly using existing audit committees within departments.

5. COMPANION ANIMAL WELFARE AND CONTROL

Summary of findings

The Sub-Committee considered companion animal welfare and management issues part of its inquiry into the effectiveness of animal welfare legislation and its administration. While there has been considerable media comment on dog management-related matters, appropriate steps to address the related issues are lacking. The Sub-Committee found a number of areas that are currently unaddressed through legislation or processes. The following highlight the most significant.

- There are significant dog control issues across the Territory, but particularly in Indigenous communities where uncontrolled, unhealthy dogs adversely affect residents and visitors' health and well-being.
- There appears to be confusion about responsibility for companion animal management versus animal welfare which must be resolved.
- Companion animal welfare, management and control is inadequately resourced and therefore makes it impossible for local governments to address alone.

Legislative framework

The Sub-Committee was advised that the concepts of animal management and animal welfare are traditionally covered by different legislative regimes. The conventional approach involves state law enacting companion animal legislation requiring registration and other obligations of those caring for animals. Local governments then administer and enforce the legislation. In the Territory, animal management is not centrally regulated.

The *Animal Welfare Act* applies across the Territory. Shires have responsibility for companion animal welfare and control, however they have identified this as one of the services they have difficulty delivering under existing funding arrangements.¹ Some LIPs include companion animal control and management, e.g. the Lajamanu LIP includes the action of maintaining an effective animal management program under making Lajamanu a safer place.²

DHLGRS advised the Sub-Committee that the *Animal Welfare Act* is not concerned with animal management, just animal welfare. However, the Sub-Committee notes that the department's governance and resourcing arrangements, which includes things like the MOU, includes administering the Animal Welfare Fund. The Fund is a grants program to help not-for-profit organisations undertake animal welfare projects.

¹ See LANT, CTC, *Third Report*, pp.28-9, <http://www.nt.gov.au/lant/parliamentary-business/committees/ctc/reports.shtm>. Also mentioned by shire councils in current shire plans. See Appendix C.

² Australian and Northern Territory Governments, *Local Implementation Plan Lajamanu*, p.47, http://www.workingfuture.nt.gov.au/Territory%20Growth%20Towns/Lajamanu/Lajamanu_LIP.html.

Funded projects can include those promoting good animal management practices in remote communities.³

Local government responsibilities are not mentioned in the *Animal Welfare Act* or accompanying legislation, but the Local Government Association of the Northern Territory (LGANT) is a member of the Animal Welfare Advisory Committee. There are some municipal council employees appointed as animal welfare inspectors.⁴ These appear to be the only links between the two different responsibilities for animal welfare.

The Territory's former Coordinator General for Remote Services, Mr Bob Beadman, in his last report said dog control legislation was enacted in 1979 in response to acknowledged problems of large numbers of uncontrolled dogs. He said:

Shires and community government councils (now shires too) were given substantial responsibility (but rarely the means) for dog control and management through the development and implementation of By-Laws – but Councils were given a discretion on whether or not to develop those By-Laws.

The *Dog Act* commenced in 1980, and was repealed in 1991. Provisions relating to dog management and control have been scattered through a raft of other Act, like the *Animal Welfare Act*, *Exotic Diseases (Animals) Compensation Act*, *Pastoral Land Act*, *Racing and Betting Act*, *Summary Offences Act*, and the *Local Government Act*.⁵

The 2007 review of the *Animal Welfare Act* noted that there were issues that needed to be dealt with in relation to its enforcement in Indigenous communities and in relation to the education and awareness programs that should operate in communities. It was also noted that care of animals in Indigenous communities needed stronger enforcement. However, the review added that the broader issues surrounding the welfare of animals in Indigenous communities was beyond the review's scope.⁶

The department's *Animal Welfare Act* Review Discussion Paper, released by the Minister in October 2009, considered seven recommendations from the 2007 review. Three of these were noted as having potential 'management' implications in Indigenous communities. The issues were:

- a recommendation to include a 'duty of care' in the Act to provide a clear statement on meeting the needs of an animal;
- the possibility of including de-sexing of dogs and cats in the Act; and
- measures to reduce the abandonment of animals.⁷

Public feedback on the department's review discussion paper included comment on animal management issues which were the responsibility of municipal and shire

³ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

⁴ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

⁵ NTG, Northern Territory Coordinator General for Remote Services (NTCG), *Report #4 December 2010 to May 2011*, pp.78-9, http://www.workingfuture.nt.gov.au/Overview/progress_reports.html, accessed 3 June 2011.

⁶ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

⁷ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

councils. The department concluded there was some support for separate companion animal legislation; particularly in relation to dangerous dogs.⁸

The Sub-Committee asked if there is a need to have separate legislation that covers companion animal welfare from legislation for the welfare of animals for farming and commercial food production. The former Director Water Safety and Animal Welfare said there was some sense in that approach.⁹

Local government responsibilities for companion animal control

All shires list companion animal welfare and control as a core service provided and municipal councils have passed animal control by-laws. Animal welfare and control was listed, by schedule, as a requirement of the previous *Local Government Act*. When the Act was redrafted it did not include a legislative requirement for companion animal control and management. The service is listed as part of 'a common set of agreed core local government services' in regional management plans, from which shire business plans are prepared.¹⁰

Most shires list companion animal welfare and control as a core service they provide as part of their environmental health services and municipal councils have by-laws governing animal control. At least one shire intends to consult with communities about the introduction of animal by-laws.¹¹ Appendix E provides a table of all Territory local government bodies' approaches to animal welfare and control.

The non-government organisation, Animal Management in Rural and Remote Aboriginal Communities (AMRRIC) was contracted by the Territory Department of Local Government in 2007 to develop a model for companion animal welfare and control. This was planned as a model for the new shires to develop their strategic plans for animal welfare and control.¹²

AMRRIC was one of six non-government organisations to receive grants under the Territory's Animal Welfare Fund.¹³ The funding was provided for two training projects in environmental health and dog handling skills for animal management staff in East Arnhem and Barkly shires. AMRRIC relies on funding from a range of government and non-government organisations.¹⁴

Media headlines have drawn attention to the ineffectiveness of the outlined approach by documenting incidents of neglect, cruelty and uncontrolled dogs, all seemingly unaddressed. Government workers are reported to have left Indigenous communities

⁸ LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

⁹ LANT, Animal Welfare Governance Sub-Committee, 'Transcript of Proceedings', 4 July 2011, p.20.

¹⁰ DHLGRS, *Regional Management Plan Report for 2008/2009/2010*, April 2011, p.3, http://www.localgovernment.nt.gov.au/regional_management_plans, accessed 27 September 2011.

¹¹ See Victoria Daly Shire Council, *Shire Plan*, June 2011, p.9, <http://www.victoriadaly.nt.gov.au/AboutUs/ShirePlan/tabid/212/language/en-AU/Default.aspx>, accessed 2 September 2011.

¹² AMRRIC, 'Shires', *Our Work*, <http://www.amrric.org/2008/12/09/shires>, accessed 5 May 2011.

¹³ NTG, Minister for Local Government, *Media Release*, 'Improving the welfare of our animals', 22 September 2011, <http://www.newsroom.nt.gov.au/>, accessed 23 September 2011; and LANT, Animal Welfare Governance Sub-Committee, confidential briefing papers.

¹⁴ AMRRIC, 'Funders and Sponsors'.

because of uncontrolled problem dogs. There are recorded instances of dogs feeding on corpses.¹⁵

A submission to the Sub-Committee from a veterinary working in the Territory's Indigenous communities argued that the 'sub-standard' existences endured by camp dogs and the lack of understanding of the benefits of humane euthanasia, means:

Many Indigenous community members live with constant flea and tick infestations in their home environment; dog scabies has also been proven to cause transient scabies in people. These parasites cause skin disease and skin lesions, giving rise to the very real and life-threatening diseases of Rheumatic Fever and Nephritis.

The submission also said it was common for malnourished dogs to be seen hunting in packs, 'seemingly targeting community members' and raised the concern expressed in communities that there is a 'real potential for these dogs to cause significant harm.'¹⁶

The Sub-Committee believes the size of the animal management problem in Indigenous communities, particularly with dogs, must be urgently addressed by government. One option could be to consider the re-introduction of a contemporary equivalent of the *Dog Act* making it a requirement to register dogs throughout the Territory. Administrative and enforcement responsibilities and funding of those functions would need to be negotiated between the Territory and local governments which would delay this option's implementation.

The urgency of finding a practical solution to the uncontrolled dogs however, calls for immediate targeted action to protect people's health and safety. Examples exist of schemes mandated by governments to eradicate diseases or other threats. This is the level of action the Sub-Committee thinks is required.

One example of a mandated scheme was the national eradication campaign to free cattle of brucellosis and tuberculosis (BTEC).¹⁷ If the cattle industry was judged important enough for a national campaign, surely steps to address the recognised problem of unhealthy dogs roaming communities requires a similar coordinated, uncompromising response. Dog numbers must be controlled until a manageable level is reached.

Local governments' responsibilities for companion animal welfare and control need to be inclusively covered in the Territory's animal welfare governance. The need for separate legislation for companion animal welfare and control should be considered as a matter of priority. The increasing number of cases of apparent animal neglect and cruelty in remote towns also suggests existing legislative arrangements are not being implemented in those areas.

The current legislative situation in regards to companion animal welfare and control has been contributed to by changes brought by local government reform. The Sub-

¹⁵ NTCG, *Report #4*, pp.79-80.

¹⁶ LANT, Animal Welfare Governance Sub-Committee, Submission 11.

¹⁷ The Brucellosis and Tuberculosis Eradication Campaign or BTEC.

Committee considers it is demonstrative of the lack of policy about how to address the acknowledged animal problem in communities.

In calling for government to 'lead with firm action', Mr Beadman quotes a veterinarian as saying the Territory is

...about twenty to thirty years behind accepted best practice and policy as it is implemented elsewhere in the country. It was claimed that in Queensland and Western Australia most Aboriginal communities have trained – and resourced – Aboriginal environmental health workers and animal management officers running holistic programs that include dog management control.¹⁸

There are undoubted links between shire responsibilities for companion animal welfare and control and the Territory Government's responsibilities under the *Animal Welfare Act*, however to date the issues have not been fully examined, other than briefly in the 2009 departmental review of the Act. The outcome of that review and possible changes to the legislation remains unknown at this stage.

Recommendations

18. Introduce a coordinated, uncompromising dog control program with the goal of decreasing the number of unhealthy dogs in the Territory.
19. The government immediately address the linkages between the *Animal Welfare Act* and local governments' responsibilities for companion animal welfare and control as part of reviewing the Act, including adequately resourcing any changes.
20. The Territory and local government bodies consult the community about the feasibility and desirability of separate legislation for companion animal management and control.
21. The Australian and Territory governments address as a priority the inadequate resourcing of animal welfare measures in Indigenous communities.

¹⁸ NTCG, *Report #4*, p.81.

APPENDICES

APPENDIX A – Hearings and witnesses

ANIMAL WELFARE GOVERNANCE SUB-COMMITTEE

LIST OF PUBLIC HEARINGS AND WITNESSES

Darwin Public Hearing Wednesday 29 June 2011

Northern Territory Ombudsman

Ms Carolyn Richards

Northern Territory Auditor-General

Mr Frank McGuiness

Darwin Public Hearing Thursday 30 June 2011

Charles Darwin University

Professor Barney Glover, Vice Chancellor

Dr Jenny Carter, Director Office of Research and Innovation

Dr Janis Shaw, Director Officer of Leadership and Organisation Culture, former
Director Office of Human Resource Services

Ms Elaine Gardiner, Chair Mataranka Station Advisory Committee

Mr Tim Biggs, Team Leader, Agricultural and Rural Operations Katherine Rural Campus

Mr Brad Walker, current Manager Mataranka Station

Animal Ethics Committee

Professor Bob Wasson, past Chair and Research (Category B) Member

Dr Cathy Shilton, Deputy Chair and Veterinary (Category A) Member

Ms Deb Brackenreg, Community (Category D) Member

Department of Housing, Local Government and Regional Services

Mr Ken Davies, Chief Executive

Ms Catherine Weber, Deputy Chief Executive, Strategic Policy and Governance

Ms Trish Angus, Executive Director Strategic Policy Development and Coordination;
formerly Animal Welfare Authority

Ms Giovina D'Allessandro, Director Local Government and Community Services

Mr Meguerditch Mikaelian, Director Water Safety and Animal Welfare

Ms Mel Frousheger, Animal Welfare Branch

Department of Resources

Mr Richard Galton, Chief Executive

Mr Rob Gobbey, Executive Director, Primary Industries

Dr Brian Radunz, Chief Veterinary Officer (via phone link)

Dr Sue Fitzpatrick, Principal Veterinary Officer

Dr John Eccles, Senior Field Veterinary Officer and Animal Welfare Officer

Mr Rob Wait, Regional Biosecurity Officer and Animal Welfare Inspector

Mr Greg Scott, Regional Biosecurity Officer and Animal Welfare Inspector

Darwin Public Hearing Monday 4 July 2011

Ms Meryl Gowing, formerly Director Water Safety and Animal Welfare, Department of Housing, Local Government and Regional Services

Darwin Public Hearing Tuesday 2 August 2011

The Hon Malarndirri McCarthy, MLA, Minister for Local Government

Mataranka Public Hearing Tuesday 2 August 2011

Ms Sue Edwards, Mataranka resident
Mr Toby Gorringer, former CDU employee

Katherine Public Hearing Wednesday 3 August 2011

Department of Resources

Mr Richard Galton, Chief Executive
Dr Brian Radunz, Chief Veterinary Officer
Dr Sue Fitzpatrick, Principal Veterinary Officer
Dr John Eccles, Senior Field Veterinary Officer and Animal Welfare Officer
Mr Rob Wait, Regional Biosecurity Officer and Animal Welfare Inspector
Mr Greg Scott, Regional Biosecurity Officer and Animal Welfare Inspector

Darwin Public Hearing Wednesday 31 August 2011

Northern Territory Ombudsman

Ms Julie Carlsen, Deputy Ombudsman

Former Charles Darwin University employees

Mr Ian Gray, former Mataranka Station Manager
Dr Brian Heim, former Manager Primary Industries and Community Services, and Director of VET, Katherine Rural College, (via phone link)

APPENDIX B – Tabled papers and questions

ANIMAL WELFARE GOVERNANCE SUB-COMMITTEE

LIST OF TABLED PAPERS AND QUESTIONS ON NOTICE FROM PUBLIC HEARINGS

REGISTER OF TABLED PAPERS

Number	Date tabled	Title	Tabled by
TP AWG03/01	29/6/11	Ombudsman's office file note 8/2/10 headed Doug Jenkins rings OO to provide information to the investigation	Mr John Elferink, MLA, Member for Port Darwin
TP AWG/03/02	30/6/11	DHLGRS Submission to AWG Sub-Committee	Ms Catherine Weber, Deputy CE, DHLGRS
TP AWG03/03	30/6/11	NTG Press Release dated 6/10/07 headed Animal Welfare Act under Review	Mr John Elferink, MLA, Member for Port Darwin
TP AWG03/04	30/6/11	Review of the Northern Territory Animal Welfare Act for the Department of Local Government, Housing and Sport, David Coles Kanzen partners, December 2007	Mr John Elferink, MLA, Member for Port Darwin
TP AWG03/05	30/6/11	Copy of email from Meryl Gowing to Brett Brogan, 9/11/09	Mr John Elferink, MLA, Member for Port Darwin
TP AWG03/06	30/6/11	Department of Housing Local Government and Regional Services Memorandum to Minister for Local Government, dated 21/6/10, Dept Ref: HLGSR-D1466	Ms Catherine Weber, Deputy CE DHLGRS
TP AWG03/07	30/6/11	Jurisdictional comparison of regulation and/or licensing schemes for research or teaching involving animals by education institutions	Mr Ken Davies, CE DHLGRS
TP AWG03/08	30/6/11	Licensing of DET (Taminmin College) under the <i>Animal Welfare Act</i>	Mr Ken Davies, CE DHLGRS
TP AWG03/09	30/6/11	Statement of Richard Galton Chief Executive of DOR to the CTC Sub-Committee on animal welfare governance	Mr Richard Galton, CE DOR
TP AWG03/10	30/6/11	Follow-up report regarding the animal welfare incident recorded against Mataranka Station and initially investigated on 4.9.09 and again on 5/9/09	Mr John Elferink, MLA, Member for Port Darwin

REGISTER OF QUESTIONS ON NOTICE

Date	Witness	Information requested	Number	Response date
29/6/11	Ms Carolyn Richards NT Ombudsman	Could you provide your information on who asked Mr Gray to apply for the position of Station Manager.	AWG03/01/01	28/7/11
	Ms Carolyn Richards NT Ombudsman	Could you advise if Dr Heim was part of the interview panel for the Station Manager's position when Mr Gray was an applicant.	AWG03/01/02	28/7/11
30/6/11	Professor Barney Glover CDU Vice Chancellor	Since 2005 how many visits were taken by the asset management group of the Charles Darwin University (or its predecessors) to Mataranka Station.	AWG03/03/01	25/7/11
30/6/11	Professor Barney Glover CDU Vice Chancellor	How did the University deal with the complaint made in 2008 by an Aboriginal community about the poor condition of stock at Mataranka Station. Please provide all related documentation and any recommendations arising from the response to the complaint.	AWG03/03/02	25/7/11
30/6/11	Professor Barney Glover CDU Vice Chancellor	Please provide a copy of the Bellin Report.	AWG03/03/03	25/7/11
30/6/11	Professor Barney Glover CDU Vice Chancellor	Please provide a list of all members of the Animal Ethics Committee at or around September 2009 which includes their qualifications and which categories they fit into.	AWG03/03/04	25/7/11
30/6/11	Professor Barney Glover CDU Vice Chancellor	Please provide the data for the turnover rate for staff at Katherine Rural College and Mataranka Station for the years 2008, 2009 and 2010; the number of student enrolments and the completion of studies and course.	AWG03/03/05	25/7/11
30/6/11	Professor Barney Glover CDU Vice Chancellor	Could you provide the CTC with a list of the permits, project approvals and improvements that the AEC has issued since October 2009.	AWG03/03/06	25/7/11
30/6/11	Ken Davies CE DHLGRS	Subsequent to the Kanzen Review of December 2007 a further piece of work was done in relation to the review of the <i>Animal Welfare Act</i> . Could any further work on the review be made available to the Sub-committee.	AWG03/04/01	27/7/11

Date	Witness	Information requested	Number	Response date
30/6/11	Ken Davies CE DHLGRS	Why were the recommendations to clear up the confusion around the lines of responsibility to Ministers (in relation to the operation of the <i>Animal Welfare Act</i>) not acted on after December 2007 when the issues were identified.	AWG03/04/02	27/7/11
30/6/11	Ken Davies CE DHLGRS	Please provide the original documentation of the request to DOJ for legal advice and the answers.	AWG03/04/03	4/7/11
30/6/11	Mr Ken Davies CE DHLGRS	Please provide a copy of the agreed policies and procedures between DHLGRS and DOR attached to the MOU	AWG03/04/04	27/7/11
30/6/11	Mr Richard Galton CE DOR	Please provide evidence of what happened, including what action was taken, to the animal welfare inspector's reports of Mataranka Station on the 4 th , 5 th and 25 th September 2009.	AWG03/05/01	28/7/11
30/6/11	Mr Richard Galton CE DOR	Please provide the file note in regards to a meeting that was held to discuss the recommendations of John Eccles and Greg Scott's report on 25/9/09.	AWG03/05/02	28/7/11
30/6/11	Mr Richard Galton CE DOR	Please provide all information and records relating to the starving animals from 18/9/08, including advice to the Animal Welfare Branch and or the Animal Welfare Authority, Ministerial briefs and ongoing reports in relation to the 2008 incidents.	AWG03/05/03	28/7/11
30/6/11	Mr Richard Galton CE DOR	Please provide the CTC with any documentation that might advise the Minister of the problems occurring at Mataranka Station at any time between September 2009 and the end of 2010.	AWG03/05/04	28/7/11
30/6/11	Mr Richard Galton CE DOR	Please provide any correspondence or documentation in regards to Mataranka Station not complying with the relevant legislation on waynotices when stock were moved or sold.	AWG03/05/05	28/7/11
02/08/11	Minister Malarndirri McCarthy	When was the first time you, or anyone from your Department, had direct contact with Charles Darwin University about animal	AWG07/01/01	23/8/11

Date	Witness	Information requested	Number	Response date
		cruelty concerns at Mataranka Station, including licensing issues regarding the AEC.		
02/08/11	Minister Malarndirri McCarthy	Please provide incidences and timelines of ongoing discussions between your Department and its monitoring of CDU over the animal cruelty concerns.	AWG07/01/02	23/8/11
02/08/11	Minister Malarndirri McCarthy	Could you please describe what your Department has done in response to Chris Young's comments relating the shooting of cattle?	AWG07/01/03	23/8/11
02/08/11	Minister Malarndirri McCarthy	Please provide all documents and instructions made by you as Minister to the Department in relation the emerging issue of cattle on pastoral leases, and elsewhere, as a result of the impact of the live export ban.	AWG07/01/04	23/8/11
02/08/11	Minister Malarndirri McCarthy	Please provide the legal definitions of cruelty and neglect.	AWG07/01/05	23/8/11

APPENDIX C – Legal opinion

LEGAL OPINION TO THE SUB-COMMITTEE

MEMORANDUM OF ADVICE

We have been asked to advise the Council of Territory Co-operation's Animal Welfare Governance Sub-Committee (the Sub-Committee) on various issues concerning the content, scope and application of the Territory's *Animal Welfare Act 1999* (the AWA). More precisely, we have been asked to answer five questions that have been posed as a result of the Sub-Committee's deliberations.

1. Does the legislation help or hinder animal welfare action related to cruelty and neglect?

Although adequate by 1999¹ standards, the AWA now suffers from a number of deficiencies which hinder – or have the potential to hinder – the promotion of animal welfare and the investigation and enforcement of instances of cruelty and neglect. It is dated, and suffers in any comparison with similar legislation made by State Parliaments and the Australian Capital Territory's Legislative Assembly. It is also less advanced than New Zealand's *Animal Welfare Act 1999*² and the United Kingdom *Animal Welfare Act 2006*.

Table 1 outlines the equivalent legislation in each of the Australian States and the Australian Capital Territory:

Table 1

Jurisdiction	Legislation
Queensland	<i>Animal Care and Protection Act 2001 (the Queensland Act)</i>
New South Wales	<i>Prevention of Cruelty to Animals Act 1979 (the New South Wales Act)</i>
Australian Capital Territory	<i>Animal Welfare Act 1992 (the Australian Capital Territory Act)</i>
Victoria	<i>Prevention of Cruelty to Animals Act 1986 (the Victorian Act)</i>
Tasmania	<i>Animal Welfare Act 1993 (the Tasmanian Act)</i>
South Australia	<i>Animal Welfare Act 1995 (the South Australian Act)</i>

¹ The AWA was enacted in 1999 but commenced operation on 27 March 2000.

² In December 2010, New Zealand's Minister of Agriculture asked the Ministry of Agriculture and Forestry to begin developing a national strategy for New Zealand's animal welfare system and a review of its animal welfare legislation. An Animal Welfare Advisory Group has now been formed. Part of its role will be to make recommendations on the adequacy of the New Zealand *Animal Welfare Act*.

Western Australia	<i>Animal Welfare Act 2002 (the Western Australian Act)</i>
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Although some of this legislation was enacted before the AWA, it has been the subject of regular amendment. Contrast this with the AWA, which has been amended on only five occasions and, even then, only in relatively minor respects³.

Unlike a number of these Acts, the AWA:

- does not impose a duty of care on those who own or are in charge of an animal.

As noted in the *Review Of The Northern Territory Animal Welfare Act* (December 2007) by Kanzen Partners (**the Kanzen Report**)⁴, the Australian Animal Welfare Strategy⁵ maintains that animal owners and 'users' should be subject to a duty of care to maintain the welfare of their animals. The National Consistency Project (which forms part of the Australian Animal Welfare Strategy) provides that the imposition of a duty of care should be a principal focus of any animal welfare legislation.

The Tasmanian Act is an example of equivalent legislation that provides for a duty of care. Section 6 of that Act stipulates that:

A person who has the care or charge of an animal has a duty to take all reasonable measures to ensure the welfare of the animal.

Mention should also be made of section 7 of the Tasmanian Act. It is reproduced below:

A person who has the care or charge of an animal must not use a method of management of the animal which is reasonably likely to result in unreasonable and unjustifiable pain or suffering to the animal.

The Queensland Act also provides for a duty of care. According to section 17 of the Queensland Act:

- (1) A person in charge of an animal owes a duty of care to it.
- (2) The person must not breach the duty of care.
Maximum penalty--300 penalty units or 1 year's imprisonment.
- (3) For subsection (2), a person breaches the duty only if the person does not take reasonable steps to--
 - (a) provide the animal's needs for the following in a way that is appropriate--
 - (i) food and water;
 - (ii) accommodation or living conditions for the animal;

³ Amendments to the AWA have been made by the *Statute Law Revision Act 2001*, *Fines and Penalties (Recovery) Consequential Amendments Act 2001*, *Animal Welfare Amendment Act 2004*, *Statute Law Revision Act 2005* and, most recently, the *Statute Law Revision Act 2007*.

⁴ See pg 7.

⁵ The Australian Animal Welfare Strategy is an initiative of the Primary Industries Ministers Council.

- (iii) to display normal patterns of behaviour;
- (iv) the treatment of disease or injury; or
- (b) ensure any handling of the animal by the person, or caused by the person, is appropriate.
- (4) In deciding what is appropriate, regard must be had to--
 - (a) the species, environment and circumstances of the animal; and
 - (b) the steps a reasonable person in the circumstances of the person would reasonably be expected to have taken.

Both the Tasmanian and Queensland Acts contain more conventional provisions about cruelty and neglect. By also making provision for a duty of care to be imposed, they:

- symbolically state the importance of caring for animals; but also
 - create a distinct offence, which might apply in circumstances where the act or omission of a person stops short of cruelty or neglect but has deleterious consequences for the animal's welfare.
- imposes penalties that have failed to keep pace with legislation elsewhere.

A breach of the AWA can lead to a penalty not exceeding 100 penalty units (currently \$13,000) *or* imprisonment for 12 months⁶. An additional penalty – not exceeding five penalty units for each day after the first day on which the offence continues – can be imposed on a person found guilty of an offence⁷.

The penalties are modest when compared with the penalties capable of being imposed under equivalent legislation. Table 2 sets out the penalties that are capable of being applied under like legislation:

Table 2

Legislation	Maximum Penalty
Queensland Act	For a breach of a duty of care, 300 penalty units or 12 months imprisonment. For cruelty, 1,000 penalty units or two years imprisonment.
New South Wales Act	For cruelty, 250 penalty units for corporations and 50 penalty units or six months imprisonment for individuals. For aggravated cruelty, 100 penalty units for corporations and 200 penalty units or two years imprisonment for individuals.

⁶ Section 75(2).

⁷ Section 75(3).

Australian Capital Territory Act	For cruelty, 100 penalty units or 12 months imprisonment. For aggravated cruelty, 200 penalty units or two years imprisonment.
Victorian Act	For cruelty, 600 penalty units for corporations and 120 penalty units or 12 months imprisonment for individuals. For aggravated cruelty, 1,200 penalty units for corporations and 240 penalty units and two years imprisonment for individuals.
Tasmanian Act	For cruelty, 50 penalty units or 12 months imprisonment. For aggravated cruelty, 100 penalty units or 18 months imprisonment.
South Australian Act	For ill-treatment, \$20,000 or two years imprisonment. For ill-treatment causing death or serious injury to an animal arising out of an intentional or reckless act, \$50,000 or four years imprisonment.
Western Australian Act	Not less than \$2,000 and not more than \$50,000, and five years imprisonment.

It can be seen that a number of these other Acts distinguish between corporations and individuals. Lest those employed by corporations avoid liability, it is common for legislation of this kind to extend liability to any officer of the corporation who knowingly authorised or permitted the corporation to contravene the legislation⁸.

Given all of this, there are grounds for arguing that the AWA does not sufficiently deter those wishing to harm an animal and may not do enough to heighten awareness of the importance of animal welfare.

- does not distinguish aggravated cruelty from other cruelty.

An intentional or reckless ill-treatment of an animal that results in the animal dying or suffering serious harm is not singled out for special treatment.

Elsewhere a specific offence of aggravated cruelty is commonplace. The New South Wales⁹, Australian Capital Territory¹⁰, Victorian¹¹, Tasmanian¹² and South Australian¹³ Acts all provide for a distinct offence and higher penalties.

⁸ See, for example, section 41AA(1) of the Victorian Act. Another approach – as evidenced by section 38 of the South Australian Act – is to make every member of the governing body of the corporation guilty of an offence when the corporation itself has offended unless it is proved that the member could not, by the exercise of reasonable diligence, have prevented the corporation from committing the offence.

⁹ See section 6 of the New South Wales Act.

¹⁰ See section 7A of the Australian Capital Territory Act.

¹¹ See section 10 of the Victorian Act.

¹² See section 9 of the Tasmanian Act.

¹³ See section 13(1) of the South Australian Act.

Once more, the failure to distinguish acts which are particularly cruel or which have fatal or near fatal consequences may signal a lack of legislative commitment to the optimum protection of animal welfare. In this respect, this deficiency in the AWA does little to help the promotion of animal welfare.

- does not provide for a minimum level of training or experience for inspectors.

Under the AWA, the Animal Welfare Authority (**the Authority**) may appoint anyone to be an 'animal welfare inspector'¹⁴. Such inspectors are given considerable investigative and enforcement powers¹⁵. Each member of the Territory Police Force has the powers and functions of inspectors¹⁶.

It might be expected that inspectors have training or experience. The Animal Welfare Branch of the Department of Housing, Local Government and Regional Services now has a training regime in place for inspectors¹⁷.

Equivalent legislation elsewhere insists that only those who are appropriately qualified (or qualified and experienced) can become inspectors. Under the Queensland Act, an individual may only be appointed as an inspector if the appointor is satisfied that the individual has the 'necessary expertise or experience' and has 'satisfactorily finished training approved by' the appointor¹⁸.

The South Australian Act provides that only a 'qualified person' can become an inspector¹⁹. A 'qualified person' means a person who has successfully completed training prescribed by Regulations made under the South Australian Act²⁰.

Other Acts distinguish between types of inspectors, with some inspectors requiring certain qualifications²¹.

Animal welfare action will be hindered to the extent that those exercising investigative or enforcement powers lack the necessary training or experience. As the survey of equivalent legislation demonstrates, it is not as though that level of training or experience need be prescribed in the AWA or the *Animal Welfare Regulations 2004 (the Regulations)*. It can be such level of training or experience as is required by the Authority.

- requires any prosecution to be brought within 12 months of the commission of the offence.

This can sometimes unfairly disadvantage the Territory. Occasionally, an offence may go undetected for a period or the work associated with commencing a prosecution may be prolonged.

Table 3 sets out the limitation periods under like legislation:

¹⁴ See section 57(1).

¹⁵ See generally Division 2 of Part 6.

¹⁶ See section 57(3).

¹⁷ Discussion on 19 October 2011 between Mark Hayes (Maddocks) and Merg Mikaelian (Director of Animal Welfare).

¹⁸ See section 114 of the Queensland Act.

¹⁹ See section 28(1) of the South Australian Act.

²⁰ See section 28(5) of the South Australian Act.

²¹ See, for instance, Part 4 of the Western Australian Act and section 18A of the Victorian Act.

Table 3

Legislation	Limitation Period
Queensland Act	12 months or six months after the offence comes to the complainant's knowledge (but subject to an ultimate limitation of two years after the commission of the offence).
New South Wales Act	12 months
Australian Capital Territory Act	12 months
Victorian Act	Three years
Tasmanian Act	Six months
South Australian Act	Two years
Western Australian Act	Two years

It can be seen that a variety of limitation periods are provided for. It is always a question of balancing the interests of the Executive (which has responsibility for detection and enforcement) and the interests of the individual (who should, in the case of summary offences, not be at risk of prosecution for an indeterminate period).

Other Territory legislation provides for longer limitation periods. As an example, section 130(1) of the *Livestock Act 2008* stipulates that a prosecution must not be started more than three years after the occurrence of the alleged offence.

The Kanzen Report highlighted a number of other deficiencies in the AWA. A survey of like legislation elsewhere reveals additional deficiencies. Collectively, the deficiencies hinder the promotion of animal welfare and the detection and successful prosecution of animal welfare infringements.

Among the more substantial of these deficiencies are:

- the lack of any rights or protection given to complainants.

It is conceivable that a person who makes a complaint about animal cruelty or neglect may not learn the outcome of any investigation. Similarly, it is conceivable that the person alleged to have committed an act of cruelty or to have neglected an animal may learn of the complainant's identity and attempt an act of reprisal.

The South Australian Act gives complainants a measure of protection. In doing so, it encourages the voluntary reporting of instances of animal cruelty or neglect.

So, section 43A of the South Australian Act provides that:

If a person reports to an inspector an alleged contravention of this Act, the inspector must, at the request of the person, inform the person if practicable of any action proposed to be taken under the Act in respect of the allegation.

The following section then addresses victimisation of complainants. According to section 43B(1):

A person commits an act of victimisation against another person (the **victim**) if he or she causes detriment to the victim on the ground, or substantially on the ground, that the victim—

- (a) has disclosed or intends to disclose information; or
- (b) has made or intends to make an allegation,

that has given rise, or could give rise, to proceedings against the person under this Act.

Detriment includes intimidation, harassment, discrimination, disadvantage, adverse treatment and threats of reprisal²². The victim is empowered to sue in tort or lodge a complaint under the South Australian *Equal Opportunity Act 1984*²³.

- the restrictions on an inspector's power to enter land.

An inspector²⁴ must ordinarily obtain the occupier's consent or a search warrant before entering premises²⁵. In exceptional cases – in cases where an inspector believes on reasonable grounds that the circumstances are 'so serious and urgent as to require the immediate exercise of ... power' – premises can be entered without the occupier's consent or the authority of a search warrant²⁶.

If an inspector is responding to a complaint, there will often be no basis for concluding that serious and urgent circumstances exist. It follows that the inspector will generally have to seek out the occupier and obtain his or her consent to enter land.

Section 63 of the AWA mandates what an inspector must do in seeking that consent. The provisions of this section are cumbersome and, practically speaking, make it difficult for an inspector to act effectively. Certainly, the power of entry conferred under the *Livestock Act*²⁷ is less circumscribed. In other jurisdictions, a more liberal power of entry generally exists unless an inspector proposes to enter a dwelling²⁸.

- limitations on the ability of inspectors to serve animal welfare (or improvement) notices

Section 67 of the AWA envisages notices of this kind. Section 67(1) provides that:

If an authorised person believes on reasonable grounds that:

- (a) an animal has not been provided with appropriate or sufficient food or drink during the previous 24 hours;

²² Section 43B(4).

²³ Section 43B(2).

²⁴ A veterinarian who has been appointed an animal welfare officer is in the same position.

²⁵ Section 62(4)(a) and (b).

²⁶ Section 62(4)(c).

²⁷ See section 104 of the *Livestock Act*.

²⁸ See, for example, section 16 of the Tasmanian Act, section 81 of the Australian Capital Territory Act, section 24E of the New South Wales Act and sections 30 and 31 of the South Australian Act.

- (b) an animal is so *severely* injured, overworked, diseased or in such a physical condition that it is necessary for the animal to be provided with veterinary treatment; or
- (c) an animal is being treated in a manner that is likely to cause it suffering,

the authorised person may take the action he or she believes is *necessary* to alleviate the animal's suffering (emphasis added).

The 'authorised person'²⁹ may choose to give a person in charge of the animal a:

written notice requiring the person:

- (i) to provide the animal with the specified rest, food, drink, shelter or treatment that is necessary in the interests of the animal's welfare; and
- (ii) if necessary – to obtain veterinarian treatment for the animal within the specified period that is reasonable in the circumstances³⁰.

A person served with such a notice must comply with it³¹.

Under the South Australian Act, an inspector can serve an animal welfare notice if he or she believes 'on reasonable grounds that the exercise of powers ... is warranted because the welfare of an animal is being adversely affected'³². Under the Queensland Act, an animal welfare direction can be given by an inspector if he or she reasonably believes that an animal is not being cared for properly, is experiencing undue pain, requires veterinary treatment or should not be used for work³³. The direction – which must be in writing³⁴ will state the action required. The action might involve consulting a veterinary surgeon about the animal's condition before a stated time or moving the animal to another place³⁵.

The high threshold which must be met before section 67 of the AWA can be enlivened means that an inspector's capacity to improve or protect the welfare of an animal is unduly restricted. A more ample power to issue something akin to animal welfare (or improvement) notices might assist in preventing animal cruelty or neglect.

- the complete absence of evidentiary provisions designed to relieve the prosecution of the need to prove certain facts.

Prosecutions can become burdensome if an accused requires the informant to prove the formality or regularity of certain things. It is, for instance, open to an accused to require the informant to establish that an inspector was validly appointed.

²⁹ This is a reference to an inspector or animal welfare officer.

³⁰ Section 67(2)(c).

³¹ Non-compliance is an offence, carrying a maximum penalty of 50 penalty units or six months imprisonment (section 67(3)).

³² Section 31B(1) of the South Australian Act.

³³ Section 158(1)(b).

³⁴ Section 159(1).

³⁵ See further section 159(3).

Other jurisdictions attempt to make prosecutions a little less burdensome. The Western Australian Act stipulates that a certificate purporting to be signed by a designated officer is evidence of the facts stated in the certificate without proof of the appointment or signature of the officer³⁶. Such a certificate may state that a licence is or is not held by a person or that an individual was an inspector³⁷.

Other examples can be given. The Victorian³⁸, Australian Capital Territory³⁹ and South Australian⁴⁰ Acts all contain evidentiary provisions of this kind. The desirability of these types of evidentiary provisions has been canvassed in a review of the Tasmanian Act⁴¹.

2. How does local government responsibility for companion animal welfare and control relate to the AWA?

Traditionally, the concepts of animal management (on the one hand) and animal welfare (on the other hand) are the subject of different legislative regimes.

The conventional approach involves a State Parliament enacting companion animal legislation, imposing various registration and other obligations on those owning or exercising control over companion animals. Essentially, these other obligations concern the ownership and management of dogs and cats, and the interaction between these dogs and cats and others. Although the relevant State Government exercises a policy role, councils administer and (for the most part) enforce the legislation.

In the Territory, animal management lacks centralised regulation. Municipal and shire councils can – and do – exercise a power to make by-laws regulating many aspects of the keeping of animals⁴². Policy, administration and enforcement of animal management is therefore heavily localised.

Occasionally, some of these by-laws intrude into the animal welfare space. Some by-laws make it an offence to abandon an animal⁴³, empower an authorised person or officer to seize an animal which is injured or diseased⁴⁴ and enable an authorised person or officer to destroy an animal if it is necessary or humane to do so⁴⁵. In doing this, by-laws risk being characterised as overlapping with the AWA. Under the Territory's *Local Government Act* 2008, a Court can take this into account in considering whether the by-law represents a reasonable exercise of power⁴⁶.

Inadequate animal management – and inadequate regulation of animal management – can be seen as a cause of animal welfare concerns. If:

- dogs and cats breed freely; or

³⁶ Section 83(1).

³⁷ Section 83(2)(a) and (e) respectively.

³⁸ See section 39 of the Victorian Act.

³⁹ See Division 1 of Part 1 of Chapter 7 of the Australian Capital Territory Act.

⁴⁰ See section 42 of the South Australian Act.

⁴¹ See the Joint Report and Recommendation by the Department of Primary Industries and Water and the Animal Welfare Advisory Committee (July 2006) pg 24.

⁴² See, for instance, the Darwin City Council, Katherine Town Council, Alice Springs (Animal Management), Litchfield Council Rural Dog Management and Palmerston (Animal Management) By-laws.

⁴³ See Darwin City Council By-law 72 and Alice Springs (Animal Management) By-law 112.

⁴⁴ See Darwin City Council By-law 75 and Katherine Town By-law 64(1).

⁴⁵ See Alice Springs (Animal Management) By-law 122(1).

⁴⁶ Section 189(3).

- animals are neglected or even dumped

there is an increased risk of sickness, disease, injury or starvation.

So, there is an obvious link between animal management and animal welfare. By-laws made by the Territory's municipal and shire councils are, in this sense, linked to the AWA – the councils' by-laws on animal management help determine whether animal welfare problems enlivening the AWA emerge. Occasionally, these by-laws can blur the demarcation between animal management and animal welfare, and occupy some of the field occupied by the AWA itself.

3. Does legislation regulating Animal Ethics Committees (AECs) embody best practice?

The AWA and the Regulations adopt something of a minimalist approach to AECs.

Essentially, the AWA does no more than contemplate the establishment and maintenance of AECs⁴⁷. It insists that AECs are to be constituted in accordance with the Regulations. The Regulations invoke a Code of Practice published by the National Health and Medical Research Council⁴⁸. Even then, as has been well documented⁴⁹ the Code of Practice described in the Regulations has been superseded⁵⁰.

Precisely when an AEC is to be established is not entirely clear. This is because an AEC is linked to a licence of the kind described in section 29(1) of the AWA. A licence is necessary when premises are to be used for 'teaching or research'⁵¹. The phrase 'teaching or research' is defined in section 4 to mean teaching or research 'involving the use or breeding of animals'⁵². Construed literally, a person using premises to teach another person to ride a horse requires a licence under section 29(1). This is because there is 'teaching ... involving the use ... of animals'.

This can hardly be what the legislature intended. Presumably, for a licence to be necessary – and for an AEC to be established – some scientific element must need to be present.

A survey of equivalent legislation in other jurisdictions⁵³ indicates that licensing and AEC requirements only apply when animals are being used for scientific purposes or procedures. The Western Australian Act regulates the use of animals for 'scientific purposes'⁵⁴, the South Australian Act imposes an obligation to acquire a licence if animals are used for the purposes of 'teaching any science' or 'research or experimentation'⁵⁵, the Victorian Act has a focus on 'scientific premises' and 'scientific procedures'⁵⁶, the Tasmanian Act is concerned with 'animal research'⁵⁷

⁴⁷ Division 2 of Part 5.

⁴⁸ Regulation 5.

⁴⁹ See the Ombudsman's *Report Of Investigation Into The Treatment of Cattle & Horses At Charles Darwin University Mataranka Station* (Volume 1) pg 100.

⁵⁰ The relevant Code of Practice is now the *Australian code of practice for the care and use of animals for scientific purposes* (7th edn 2004).

⁵¹ Section 29(1).

⁵² The term 'research' is itself defined. Its definition also appears in section 4.

⁵³ See the Australian Capital Territory, Victorian, Tasmanian, South Australian and Western Australian Acts. In New South Wales the relevant Act is the *Animal Research Act* 1985.

⁵⁴ See Part 2, and the definition of 'scientific purposes' in section 5(1) of the Western Australian Act.

⁵⁵ Section 16(1) of the South Australian Act.

⁵⁶ See generally Part 3 and the definitions of 'scientific premises' and 'scientific procedure' in section 3(1) of the Victorian Act.

and the New South Wales *Animal Research Act* imposes obligations only in respect of 'animal research'⁵⁸.

Only the Queensland Act appears to suffer from the same defect as the AWA. It too links a licence to the use of an animal for research *or* teaching⁵⁹.

If the generic language of this aspect of the AWA is troublesome, so too is the lack of any accountability by and scrutiny of:

- those holding licences under Part 5; and
- AECs.

Indeed, the approach of the AWA falls well short of 'best practice' legislation. Legislation in other jurisdictions makes greater provision for accountability and scrutiny.

Specifically:

- in South Australia, the relevant Minister is empowered to establish AECs and choose their members⁶⁰.

Further, such an AEC must furnish an annual report to the Minister⁶¹;

- in Tasmania, licensees must submit Annual Reports to the relevant Minister⁶². The latter must then summarise all such reports and publish a summary⁶³;
- in Western Australia, a register of licences must be available for public inspection⁶⁴.

In addition, a 'scientific inspector' can attend an AEC meeting as an observer⁶⁵. This inspector – who must be 'suitability qualified and experienced' – can provide the relevant Minister with advice on whether the Code of Practice is being observed⁶⁶; and

- in Queensland, registered scientific establishments must submit Annual Reports to the relevant Minister. These Annual Reports must contain prescribed information, including information on complaints, enquiries and grievances⁶⁷.

The Queensland Act also makes provision for authorised officers to devise and implement programs to monitor compliance with the Code of Practice⁶⁸.

⁵⁷ See section 27(1) of the Tasmanian Act.

⁵⁸ This term is defined in section 3(1) of that Act.

⁵⁹ See section 25(1).

⁶⁰ Section 23 of the South Australian Act.

⁶¹ Section 25(1)(e) of the South Australian Act.

⁶² Section 35(2) of the Tasmanian Act.

⁶³ Section 35(4) of the Tasmanian Act.

⁶⁴ Section 18 of the Western Australian Act.

⁶⁵ Section 53 of the Western Australian Act.

⁶⁶ Section 52 of the Western Australian Act.

⁶⁷ Section 87(2) of the Queensland Act.

⁶⁸ Section 95 of the Queensland Act.

These legislative initiatives are often accompanied by administrative arrangements that seek to remind AEC members of their responsibilities. In Victoria, for instance, the Department of Primary Industries conduct regular audits of AECs⁶⁹ and facilitates meetings of AEC Chairs.

It can be seen, therefore, that the AWA (and the Regulations) stop well short of what is best practice. Alignment with the current version of the Code of Practice would be a start. Beyond this, however, best practice dictates that legislation provide for a governance structure in which there is appropriate oversight of licensees and AECs. In particular, given the approval and monitoring roles of AECs⁷⁰ there has been an understandable move in other jurisdictions to ensure that AECs are accountable for what they do.

4. Does animal welfare legislation cover concerns in indigenous communities? How do Local Implementation Plans (LIPs) interconnect with animal welfare governance?

The AWA applies throughout the Territory. It therefore applies in indigenous communities.

To the extent that concerns exist in these communities about:

- safety, council by-laws (rather than the AWA) will be relevant; and
- animal welfare, the AWA applies and is capable of being enforced.

Of course, reports of alleged acts of cruelty or neglect need to be made and then investigated. It could be that a culture of non-compliance exists in some areas and/or that, at least in remote areas it is difficult for investigation by a specialist inspector to occur. It is to be recalled that, under the AWA, police officers *are* inspectors.

The Kanzen Report referred to the need for greater enforcement in townships and for a more concerted effort at promoting animal welfare education and awareness.

A number of LIPs have now been developed, as a product of the National Partnership Agreement on Remote Service Delivery between the Australian and Territory Governments. The following LIPs list animal management as an area of community life (or building block) covered by the LIP:

- Numbulwar LIP;
- Milingimbi LIP;
- Lajamanu LIP; and
- Ngukurr LIP.

⁶⁹ The current edition of the Code of Practice provides for AECs to be externally reviewed every three years, although the results of the external reviews need only to be furnished to the 'home' establishment (see Appendix 1).

⁷⁰ See section 2.2 of the Code of Practice.

An examination of these LIPs reveals that animal management has a safety context. In other words, the focus appears to be on animal control rather than animal welfare. The occasional LIP adopts a broader focus – the LIP applicable to the Milingimbi people refers to a strategy of developing 'a regional Animal Management Welfare and Control ... Program' so that the Milingimbi people understand 'how to care for their animals'.

Generally, though, LIPs are generic in their treatment of animal management. The Numbulwar LIP is typical. In the context of developing a Community Safety Plan, the following action is listed:

1.2.4 Maintain an effective animal management program.

It is possible that LIPs can be drivers for changes to animal practice and/or animal welfare practices in indigenous communities. For this to occur, though, the impetus must come from Local Reference Groups and sufficient resources would need to be devoted to helping implement the strategies that have been devised.

5. *How many prosecutions have there been under the AWA?*

It is likely that no definitive statistic can be produced.

The Kanzen Report said that there had been 'some successful prosecutions' but also 'prosecutions that have failed'.

Elsewhere, they refer to 'relatively few prosecutions' and 'very few prosecutions' for acts that the community would view as cruel.

Enquires made of the Department of Justice suggest that, since 2003, there have been approximately 10 prosecutions under the AWA⁷¹. This is based on a search of the Magistrates' Court and Solicitor for the Northern Territory websites⁷².

We have been advised that there are currently three prosecutions for alleged breaches of the AWA⁷³.

Of course, none of this captures prosecutions under other legislation where an element of animal cruelty or neglect was present.

**MARK HAYES
MADDOCKS**

⁷¹ Email from Ray Murphy (Department of Justice) to Mark Hayes (Maddocks), dated 20 October 2011.

⁷² Email from Ray Murphy (Department of Justice) to Mark Hayes (Maddocks), dated 20 October 2011.

⁷³ Email from Ray Murphy (Department of Justice) to Mark Hayes (Maddocks), dated 20 October 2011.

APPENDIX D – Timeline

**ANIMAL WELFARE COMPLAINTS ABOUT MATARANKA STATION -
TIMELINE OF RELATED EVENTS¹**

Date	Summary of events
2008	
Unknown dates	Fires caused substantial stock losses at Mataranka Station.
28 Aug	CDU determined that the effects of 'old style' stock management and suboptimal wet season conditions were beginning to show in the condition of cattle at Mataranka Station. Steps to mitigate were put in place including a more active management of the station manager and station.
19 Sept	DOR inspected stock at the station following an anonymous complaint.
Sept	At some stage in September, the Station Manager was replaced with an acting Manager who was a CDU Livestock Lecturer.
2 Oct	DOR queried if CDU's KRC had an animal ethics permit and was being regularly inspected by the AEC. As the KRC did not have an animal ethics permit the matter was put on the agenda for the AEC's next meeting.
8 Oct	DOR inspected stock at the station and reported there were animal welfare concerns because of shortage of feed.
14 Oct	AEC met and was informed of DOR inspections and issues at Mataranka Station. The AEC asked that the KRC lodge an animal ethics permits application as soon as possible.
	Following the appointment of an acting station manager, the onset of the wet season and subsequent improvements to cattle condition, circumstances were monitored. No further concerns were raised in 2008.
2009	
January	A CDU VET trainer was appointed as acting station manager. The former manager continued in an advisory role.
27 Feb	AEC received an animal ethics permit application from KRC (approved in April).
1 May	CDU Vice Chancellor advised staff involved with Mataranka Station that he enjoyed his recent trip to the station. No concerns were raised by the Vice Chancellor or anyone else at this time about the condition of stock.
4 May	Newly appointed Station Manager (Ian Gray) commenced at Mataranka Station. Mr Gray said on his arrival at the station he was concerned about the condition of cattle. A former station manager said in May 2009 cattle had body condition score of 3-4 (out of 5) and this was corroborated by others.

¹ This timeline directly relates to the complaints from late 2009 that were subsequently investigated by the NT Ombudsman from early 2010. Events in 2008 are included to provide the context of investigations into stock condition at Mataranka Station. The timeline collates documents from a range of sources including confidential documents. Most names of people involved have therefore been removed, instead referring to the organisation concerned.

1 July	CDU VET trainer advised Ian Gray that some weaners were below weight.
28 Aug	Toby Gorringe (CDU VET Lecturer) told CDU VET Director that cattle had been locked in Highway Paddock (on Mataranka Station) without sufficient food and that weaners locked in cattle yards were not being fed regularly.
4 Sept	DOR initiated an investigation in response to an anonymous complaint about the condition of cattle on Mataranka Station. DOR Inspectors reported a large proportion of cattle, particularly lactating cows with calves and weaners, to be in a very poor and weak condition with insufficient suitable feed for cattle in yards and a small paddock. Based on this inspection it was decided a further immediate inspection of the entire property was required and was arranged with the Station Manager for the following day.
5 Sept	Two DOR inspectors directed the Station Manager to immediately feed the cattle. DOR officers returned to check if cattle had been fed and immediately put out 12 bales of hay to cattle as insufficient hay had been put out. Copy of draft report recommended prosecution under s67(1) of the <i>Animal Welfare Act</i> . Report not signed or endorsed.
7 Sept	DOR Chief Veterinary Officer advised the AEC that prosecution of Mataranka Station for animal neglect at Mataranka Station was being considered. CDU senior managers were advised and a meeting held to discuss issues.
16 Sept	Director of Animal Welfare and Water Safety was informally notified by DOR of the animal welfare issues at Mataranka Station.
16 Sept	CDU determined that management of Mataranka Station would transfer from Finance and Asset Services to VET.
17 Sept	AEC staff inspected Mataranka Station accompanied by Ian Gray and DOR inspector. A draft report contained 19 observations and recommendations for action.
25 Sept	DOR conducted a follow-up monitoring inspection of Mataranka Station due to concerns that issues identified on 17 Sept were not being addressed. It was reported that a large proportion of cattle remained in very poor and weak condition and constituted an animal welfare issue. A small number of downer cattle were humanely destroyed by DOR inspectors. The report noted that the situation was urgent and that management needed to provide an agenda about how it was going to solve the present problem.
26 Sept	DOR inspectors met CDU staff to discuss the CDU response during the station investigation and plans for future management.
7 Oct	Toby Gorringe emailed CDU senior manager expressing concern about the welfare of animals at Mataranka Station. He was told of actions taken to improve animal welfare at Mataranka Station and that actions met DOR and AEC requirements.
7 Oct	AEC members conducted the second inspection of the station.
8 Oct	Suzanne Edwards (Toby Gorringe's partner) emailed electorate offices of members for Nelson (email address was incomplete), Stuart, Daly and Katherine

	(cc'd to Senators Crossin and Scullion) about neglected and suffering animals at Mataranka Station and attached photos. Email was forwarded to Minister Knight and subsequently forwarded to Director Water Safety and Animal Welfare in DHLGRS for immediate action. From this date the Animal Welfare Unit monitored the situation while DOR continued as lead agency in the investigation.
9 Oct	DOR staff inspected Mataranka Station and reported that although the cattle's condition had improved there were still some cattle in very poor condition. Advice from DOR to DHLGRS was that enforcement under the Act, such as issuing notices, would be problematic and was not considered necessary as progress was being made in both the condition of the animals and the practices of the station.
13 Oct	The AEC report on the 17 Sept and 7 October inspection was forwarded to the Vice Chancellor. Toby Gorringer continued to raise concerns about the condition of the cattle at Mataranka Station.
23 Oct	DOR staff conducted a follow-up monitoring visit of Mataranka Station and reported that CDU had taken a number of positive, short-term steps. Continuing problems were reported as insufficient labour to provide a consistent supply of supplementary feed and to effectively monitor livestock in very light body condition.
27 Oct	DOR wrote to CDU informing it that DHLGRS and DOR had received several animal welfare complaints about the condition of cattle at Mataranka Station and outlined the responsibilities of livestock owners, managers and those in charge of livestock under the <i>Animal Welfare Act</i> .
27 Oct	Tom Stockwell was contracted by CDU to investigate Toby Gorringer's complaints.
9 Nov	CDU Vice Chancellor reported to the CDU Council on the animal welfare issues at Mataranka Station and that the terms of reference for a review of operations at Mataranka Station were being finalised.
9 Nov	Minister Knight's adviser was told by Director Water Safety and Animal Welfare that condition of cattle at Mataranka Station would not become an animal welfare prosecution as there was no evidence trail.
9 Nov	Minister Knight noted advice from DHLGRS regarding Mataranka Station. Included in the advice was that DOR inspectors stated on 5 Sept 2009 that Mr Gray was in breach of sections 6 and 8 of the <i>Animal Welfare Act</i> .
13 Nov	Tom Stockwell submitted his final report which found evidence in support of Toby Gorringer's complaints.
17 Nov	Ian Gray was stood down and asked to prepare a response to Tom Stockwell's report.
26 Nov	A complaint was received by CDU about the condition of horses at Mataranka Station.
3 Dec	AEC members inspected the horses at Mataranka Station.
8 Dec	Inspection of Mataranka Station conducted by DHLGRS and DOR staff. The DOR officer noted the condition of the animals as remaining poor but improved since

	the previous visit and was pleased with the progress. Due to some contributing staff problems at the station, it was agreed with CDU that further inspections would be unannounced. No formal report prepared.
9 Dec	AEC was advised about the visit on 8 Dec and was told DHLGRS was satisfied with the condition of the livestock but the next inspection would be unannounced.
9 Dec	The AEC Chair summarised investigations' findings (AEC, DOR and Stockwell) and responses to them. He concluded that there was no case of misconduct against Mr Gray and that he should be reinstated and advised that the substantive requirements of AEC in respect of cattle and horses had been met.
10 Dec	Ian Gray reinstated as Mataranka Station manager.
11 Dec	The AEC Chair advised all staff at Mataranka and KRC about Ian Gray's reinstatement and outlined the investigations and actions taken to remedy animal welfare concerns.
2010	
January	AEC suspended teaching and research permit for Mataranka Station.
28 Jan	An AEC member made a complaint to DHLGRS about the condition of horses at Mataranka Station, the reinstatement of Ian Gray and that not all AEC recommendations were being implemented. The Animal Welfare Unit spoke to AEC staff who advised the matter was under control and would have another unannounced inspection in a few weeks.
29 Jan	Toby Gorrings lodged a complaint with the Ombudsman's office.
February	AEC conditionally reinstated Mataranka's teaching and research permit. Conditions related to operational requirements and business planning.
2 Feb	Megan Pickering (Katherine vet) assessed five horses at Mataranka Station. It was reported that the examined horses were in good visual condition but blood test results showed a need for pasture maintenance work to remove poisonous <i>Crotalaria</i> plants (linked to Walkabout disease).
4 Feb	Ombudsman gave notice to CDU Vice Chancellor, Minister Burns and complainant of intention to investigate seven areas of conduct associated with Mataranka Station.
16 Feb	DHLGRS received a complaint about the condition of horses at Mataranka Station and asked for DOR's assistance. A DOR officer and Animal Welfare Branch inspector conducted a property visit and reported cattle and horses to be in good condition although some horses required routine husbandry maintenance. It was noted that the complainant had delayed reporting for several months and the condition of the horses had improved over the wet season.
16 Feb	DHLGRS and DOR officers conducted an unannounced inspection of Mataranka Station. It was reported that the animals' condition had further improved. The condition of the pasture had also improved due to the wet season. The inspectors noted that the dry season would be a critical time for the animals and recommended that a follow-up visit occur prior to the onset of the dry season.
18 Feb	Minister Malarndirri McCarthy's office was given an update on Mataranka Station and advised of DHLGRS and DOR visits and that the animals' condition had

	improved.
5 Mar	Minister McCarthy's office given another update on Mataranka Station including advice that DHLGRS was continuing to manage the animal welfare situation through unannounced visits; the station management issue was not an issue for DHLGRS; and the AEC reports to a federal body.
7 May	A DOR officer and Animal Welfare inspector conducted a follow-up visit to Mataranka Station and cattle and horses were in generally good condition but some lactating cows and weaned calves in poor condition were receiving adequate feed.
3 Jun	First meeting was held of the Mataranka Station Advisory Committee established to implement continuous improvements to the development of Mataranka Station.
26 Jun	Minister M McCarthy received advice that while there appeared to be some substance to the 8 October complaint, advice from DOR was that the situation was being managed and that it considered its officers who first investigated 'had over-reacted to the situation'.
28 Jun	A follow-up monitoring visit was conducted by a DOR officer and cattle and horses were reported in good condition and that a change in station management had been implemented.

APPENDIX E - Animal welfare and control

LOCAL GOVERNMENT ANIMAL WELFARE AND CONTROL PLANS

Shire/ Municipal Council	Animal Welfare Control in Business Planning ²
Alice Springs Town Council	Animal Management By-laws
Barkly Shire Council	<p>Included in Shire Plan. Identified by the Local Boards as 1 of the 5 major challenges.</p> <p><u>Tennant Creek</u> Employment of an additional Ranger, regular patrols throughout larger communities and negotiation for a full time veterinarian service in Tennant Creek and communities. Council Rangers also work closely with the Life Skills Program provided in Tennant Creek by Julalikari Council Aboriginal Corporation. Council is committed to supporting commencement of a full time veterinary practice in Tennant Creek during 2011/2012.</p> <p><u>Elliott</u> Will have scheduled veterinary visits in addition to an animal control program by Council Rangers travelling from Tennant Creek.</p> <p><u>Alpurrurulam, Arlparra (Urapuntja Homelands) & Ampilatwatja</u> Regular veterinary visits and animal control programs scheduled by Council Rangers from Tennant Creek during 2011/2012.</p> <p><u>Wutunugurra (Epenarra)</u> Regular veterinary visits and animal control programs scheduled by Council Rangers from Tennant Creek during 2011/2012. Funding has been obtained for a community perimeter fence and this will be erected with cattle grid entrances to the community during 2011/2012.</p>
Belyuen Shire Council	Included in Service Delivery Plan 2010-11 only Council to engage a Vet clinic to look after health of community pets on a quarterly basis.
Central Desert Shire Council	<p>Included in the Service Delivery Plan 2011/12 Implementation of Dog Management Program for the care and management of dogs to protect the health, safety, and environment of the community:</p> <ul style="list-style-type: none"> • Continuing veterinary program including desexing with owners consent • Reduction of aggressive dog behaviour through desexing and improved animal care. • Education for community residents to enable better understanding of animal care and welfare as well as benefits of desexing and vet care. <p>Employment of an Animal Management Officer to promote responsible animal care.</p>
City of Palmerston	Animal Management By-laws
Coomalie Community Government Council	Dog By-laws and dog control program

² The most recent shire plan or relevant planning document was used to prepare the table.

Shire/ Municipal Council	Animal Welfare Control in Business Planning ²
Darwin City Council	Animal management included in Darwin City Council By-laws
East Arnhem Shire Council	<p><u>Angurugu, Milyakburra and Umbakumba</u> Not started</p> <p><u>Galiwin'ku, Gapuwiyak, Gunyangara, Milingimbi, Ramingining and Yirrkala</u> Ongoing animal welfare and control</p> <p><u>Headquarters</u> Develop a policy and local law for community consistent with consultation.</p>
Katherine Town Council	Animal management included in Katherine Town Council By-laws (implemented from 8 July 2011)
Litchfield Council	Rural Dog Management By-laws (implemented from 1 March 2011)
MacDonnell Shire Council	<p>Document an Animal Control Plan for MSC by 30/09/2011 and execute across communities</p> <ul style="list-style-type: none"> • Implement the Animal Control Plan for the identified federal growth towns (Ntaria) • Ensure appropriate staffing 1FTE by 31/12/2011 for Ntaria and appropriate staffing and/or contractors across other communities • Ensure scheduled ongoing visits by the vet to every community.
Roper Gulf Shire Council	<p>Reduce the number of companion dogs on communities and towns where RGSC provides veterinary services by 12% or to the national average by end June 2013.</p> <p>Control and management of companion animals, in particular the introduction of by-laws for control and education and awareness has been flagged by many townships as important. The Shire aims for a strategic roll out of companion animal welfare management activities including the enforcement of bylaws and delivery of education and awareness programs by the 1st December 2011.</p> <p>A key component to managing companion animal control is the fencing of houses in partnership with Territory Housing.</p>
Tiwi Islands Shire Council	Not included in Draft Shire Plan but animal control listed as a community enterprise with funding of \$30,000.
Victoria Daly Shire Council	<p>Council only receives \$10,000 per community (and none for outstations) for this service, which does not cover the vet program in each community.</p> <p>Council has begun consultation in every community in regards to the development of animal by-laws and allocated money in the budget for implementation.</p> <p>By-laws will only be introduced with full community support and a clear enforcement plan. Council will continue to lobby for increased funding in this area.</p>
Wagait Shire Council	<p>The council has no by-laws to deal with animals. It has sought exemption for this service to not be a core service. The council uses the services of Police to deal with dangerous dogs.</p> <p>The council has firearms to deal with injured animals.</p>

Shire/ Municipal Council	Animal Welfare Control in Business Planning ²
	Community demands will determine if the council will introduce animal control laws.
West Arnhem Shire Council	<p><u>Jabiru</u> Has companion animal by-laws in accordance with the Jabiru Town Development Authority and the Kakadu National Park Plan of Management.</p> <p><u>Balance of Shire</u> Completion of dog control by-law to be introduced in 2011/12.</p> <p>Community consultation with traditional owners regarding culturally appropriate strategies of animal management in communities.</p> <p>Implementation of AMRRIC Animal Management Framework that includes regular visits by vets, desexing, education program, health checks, terminations, employment of part time dog health workers.</p> <p>The Australian Government announced further funding for two years for animal control and health programs in Maningrida.</p>