

Mr VOWLES (Primary Industry and Resources): Madam Speaker, I thank the honourable members for their contribution to debate today. The purpose of this bill is to create a new *Animal Protection Act* which will strengthen policies applying to animal welfare and protection and ensure the governance of such matters is undertaken more effectively in the Northern Territory.

In addition, the introduced bill aligns and builds upon the existing regulatory framework in the Northern Territory and puts in place clearly defined rights, roles and responsibilities for government, industry and the community on matters of animal welfare.

Lastly, the bill serves to repeal the existing *Animal Welfare Act* enacted back in 1999 which has been in operation for nearly 19 years. Before discussing the government's response to the committee's recommendations, I acknowledge the many members who spoke during the debate and some of the key issues they have raised.

I thank—he does not get much thanks—the Leader of the Opposition for his contribution. This bill has been improved by his comments and support for this bill. As the Leader of the Opposition said this bill has been improved through hearing from stakeholders and the community during the scrutiny committee process. In relation to his comments on the range of legislation that may be applicable in the context of traditional hunting, I note for the record that the government has taken appropriate legal advice on this issue and is satisfied that the bill is compatible with the applicable Territory and federal legislation.

Of course there will be interaction between this bill and other legislation in relation to traditional hunting practices. A shooter, for example, will need a firearms licence. On the point of how traditional rights should be respected, the government believes our amendments, which I will discuss further at a later point, do a great job of balancing all interests.

I also thank the Member for Nelson for his comments. The Member for Nelson is well known for his passion for his animals and he certainly brightened our chamber with his reading of the Cheeky Dog by the wonderful Territory artist Dion Beasley and Johanna Bell. Always entertaining Member for Nelson, thank you very much, it brightened up my day I might add.

I will try and address some of his questions. In relation to the definition of animal, this builds on our existing definition that excludes certain circumstances. This approach to drafting can be seen in different ways in the definition of animal in some other jurisdictions too. The Member for Nelson raised a number of scenarios and

questioned whether a practice would be animal cruelty. Although each circumstance will be different, I will not try to be judge and jury for each scenario. The key message I can deliver on this issue is that industry codes of practice will be at the forefront of determining what is appropriate. The bill creates a process of adopting those codes. My department will be working with stakeholders to ensure they are of sufficient standard.

In relation to antique metal traps, I am advised by my department that they do not run afoul of the relevant provisions.

In relation to section 34, that is a specific offence based on specific circumstances of a dog being untethered in a tray on a public road, any scenario different to that is governed by other legislation, be it the *Traffic Act* or something like legislation governing livestock movements.

I was especially pleased to hear the Member for Nelson read the relevant parts of the NLC submission detailing the need for defences for traditional owners in relation to clauses 24 and 25.

In the amendment schedule in front of members you will see that is more or less what we have implemented. The exception is section 24(3), 'intentionally torturing', which would be outside any traditional law and custom. The Opposition Leader and Member for Nelson both spoke about the concept of traditional laws and customs, and there were questions of how that is defined.

Traditional laws and customs of Aboriginal Territorians are well known to Territory law and courts. Traditional laws or customs have been examined previously in cases concerning animal welfare in illegal fishing practices. This has, at times, included anthropological evidence, involvement of land councils and evidence from traditional owners. I am confident that the new provisions in this bill are practical and can be applied by agencies and courts.

There were also some comments on animal sentience by some members opposite. The government and the bipartisan Social Policy Scrutiny Committee agree that sentience is implicitly covered by the bill, and it is the reason animal welfare matters. I also note that sentience is not specifically referred to in animal welfare legislation in any other jurisdiction in Australia.

I thank the Deputy Chief Minister, the Member for Wanguri, for her support. She is a hard-working Police minister. Police often have a vital role in investigating animal cruelty.

I also thank the Member for Barkly for his detailed contribution. Many members have been thinking of issues like camp dogs, and I am grateful to Minister McCarthy for taking the time to explain the difference between animal welfare and animal management, and how animal management operates in the Northern Territory. I know he is passionate about education, and that is so important to getting better outcomes.

I thank Minister Moss for her support. She is working hard to enhance the Territory's lifestyle through the great tourism work she is doing. She is also working to improve our parks and supporting our ever important rangers.

I thank the Member for Sanderson for her contribution, and the Member for Brennan, especially for his stories about Hiccup and when he lived on the farm.

I thank the Member for Arnhem for her support. She spoke about the importance of standards, which she brings to her role every day as Minister for Education.

I thank the Member for Goyder for her comments and support. Her comments on animal sentience were spot on. This whole bill is about sentience. That is why animal welfare matters.

I also thank the Member for Stuart for his support and for sharing some of his experience with us today—ensuring remote Territorians continue to be heard in this Chamber.

I thank the Member for Namatjira for his support. It was good to hear about his horses—he loves and is passionate about his horses—and I know he is working every day on behalf of his electorate.

I thank the Member for Karama for her comments and work leading this scrutiny committee review of the bill. It has been a lot of work and I appreciate all you and the committee have done.

I thank the members of the Social Policy Scrutiny Committee, the chairperson—the Member for Karama—and the Members for Katherine, Namatjira, Spillett and Araluen for their work and the detailed report they presented on this bill.

In total the committee received 34 submissions, which demonstrates the resonance of animal welfare with all Territorians. To those organisations and individuals, as the minister with oversight of this legislation, I say that your work has improved this legislation and done a service for our Territory community. I thank all of you for your efforts.

On 1 May 2018 the chair of the committee presented its report to the Legislative Assembly. There were 17 recommendations made, some of which included a number of components—all of which our government has closely examined. The government has responded by accepting the vast majority of the recommendations.

We have accepted 14 of the 17 recommendations. The government has not accepted two amendments relating to drafting or legislative practices for technical reasons.

The final recommendation, which doesn't relate to this bill specifically, is a matter the government notes and will consider in future.

I now will address each recommendation and provide the government's response.

The committee first recommends that this assembly pass the bill with proposed amendments as set out in recommendations 2 to 16. I thank the committee for recommending this important bill be passed.

Recommendation 2 of the committee is amendments to define the terms 'harm', 'pain' and 'suffering'. The government accepts this recommendation and it is captured in item 1 of the amendment schedule by adding in clause 4 of the bill a definition for the terms 'harm' and 'suffering'.

As regarding 'pain', on the basis of drafting advice from Parliamentary Counsel, it is captured in the new definition for 'suffering'.

Recommendation 3 has two parts. Recommendation 3(a) made by the committee calls for the broadening of the current meaning of 'animal' to include live fish irrespective of whether they are kept in captivity or are dependent on a person for food.

Under the current *Animal Welfare Act*, wild fish and crustaceans which are not dependent on a person for food and care are excluded from the meaning of animal. This historical approach was continued in the introduced bill. In the light of the persuasive views of stakeholders and the findings reached by the committee, it is now time for the Northern Territory to include fish in the broader definition of animal. Our government supports the implementation of this recommendation.

This is to be achieved by amending existing clause 5 of the bill to ensure that any post-capture acts of cruelty and neglect on bony fish; sharks; rays; crustaceans, for example crabs and prawns; cephalopods, including squid and octopuses, will be specifically included in this act.

This amendment will now allow for the capturing of blatantly cruel acts against wild fish, two of which were highlighted in the committee's report—including the dragging of a live shark behind a vehicle in Western Australia, and the kicking of a live blowfish at a jetty in Darwin.

At Mandorah Jetty last week, it was reported that a ray and a shovel-nose shark may have been left for dead after their tails were removed. The circumstances surrounding the death of these marine animals remain unknown.

What we do know that under the Territory's current animal welfare legislation, fish, sharks, rays and other aquatic animals that are not in captivity or dependent on a person for food and care are not covered by cruelty provisions. In other words, a person cannot be charged for perpetrating cruel acts on these types of animals. This is because the definition of animal under section 5 of the existing Animal Welfare Act specifically excludes live fish that are not in captivity.

That is unacceptable and through this amendment, this legislation will address those acts of cruelty. The acts of cruelty against fish and aquatic animals should not go unpunished. It has been noted that subclause (5)(3) has been included to make it clear that a fish on the end of a line and still in the water, or a crab still in

a trap before being hauled into boat, or equivalent scenarios, will not be taken as being as in a person's possession or control.

This amendment is to ensure that the new act does not apply to pre-capture fishing activities. The Fisheries Act is the tool that sets out the appropriate methods and gear used for the pre-capture of fish and other aquatic species, such that those of the inappropriate or unacceptable pre-capture practices are already highly regulated and contraventions can be prosecuted.

Now that wild fish are to be included within a broader meaning of animal, for the first time in the NT all commercial and recreational post-capture fishing activities will be subject to the act. Appropriate and accepted fishing practices will remain lawful if they are undertaken in accordance with codes of practice, to be adopted or prescribed under future animal protection regulations. Existing clause 20 in the introduced bill provides the regulatory mechanism for this to occur.

Clause 21 of the introduced bill provides a specific defence to a person against an allegation of cruelty. This defence is available to recreational and commercial anglers if upon the landing of a fish or crustacean it is handled and dispatched or killed in accordance with the method they set out in the code of practice which has been adopted or prescribed under animal welfare regulations.

The act will not commence until the regulations have been finalised which will include the adoption of necessary codes of practice. This is provide certainty to ensure that appropriate and acceptable fishing practices in the Northern Territory will remain lawful under the new act.

With respect to such codes, the NT's commercial fishing industry already works in accordance with established codes of practices for the handling, releasing, dispatching, transporting and storing of their catch. It makes sense that these industries can be formally recognised under the new regulations.

The Amateur Fishermen's Association of the NT (AFANT) is also working with the Recreational Fishing Advisory Committee on developing the NT's own code of practice for recreational fishing and sports fishing. This work is being funded by a grant from the Northern Territory Government. It will be something we hope to adopt going forward.

Recommendation four of the committee was for clause 12 to be amended to preserve and individual's right to the privilege against self-incrimination. The government supports this change—it is captured in item three of the prepared amendment schedule.

Recommendation five put forward by the committee is more complex. It calls for the existing clause 20 of the bill to be amended to ensure that any codes of practice to be prescribed or adopted under the future animal protection regulation including any amendments to an already adopted or prescribed code, must be tabled in legislative assembly and subject to disallowance as provided under section 63(9) of the Interpretation Act.

The potential effect of this recommendation is far broader than this bill before the House. It raises a question as to whether or not the adoption of codes of practices even under existing regulations that are already in place for any act under which codes of practice or standards are prescribed, must first be tabled in this assembly and subject to disallowance.

This is a significant matter for the government and the Assembly as a whole and not one which will be resolved through this bill. Rather, as one of which that requires wider consideration to determine what consequences, both positive and negative, such a change may have on the legislative flow of this parliament. As a result, this recommendation has not been incorporated into the bill.

Recommendation 6 of the committee is more straightforward and calls clause 22(1) of the bill to be amended by removing the existing words, 'owes a duty of care' and substituting with the words, 'must provide a minimum level of care'. This change is supported and captured in item 4 of the prepared amendment schedule.

Recommendation 7 seeks changes that exist in clause 24(1) of the bill, where a person commits an offence if he or she intentionally causes or contributes to the suffering of or harm to an animal, to ensure that the fault element of an intention only applies to the conduct of the person and not the result of that conduct. This change is supported by the government as captured in item 5 of the prepared amendment schedule.

Recommendation 8 seeks change to clause 24(3), which makes it an offence where a person intentionally abuses, terrifies or torments an animal, by removing the existing words, 'terrifies or torments'. This change is supported by the government and is captured in item 7 of the prepared amendment schedule.

Recommendation 9 of the committee calls for clause 24(7)(c) to be amended by removing the words, 'other than the dew claws of a dog less than 5 days old'. The effect of this change is to ensure there is no valid reason for the removal of dew claws from a newly born dog. This change is supported by the government and incorporated in item 8 of the prepared amendment schedule.

Recommendation 10 seeks changes to clause 29 by removing subclauses (5)(a) and (c), which would otherwise allow discretion for the chief executive officer to authorise a person in writing to use a metal jawed trap. This change is supported by the government and is included in item 9 of the prepared amendment schedule.

Recommendation 11 of the committee seeks to change clause 32 to clarify the exemption provided at subclause (6)(b), which allows for the feeding of live food to animals held in captivity. It is only acceptable in circumstances where live food is essential for the animal's survival and the live food is of an appropriate species.

A change has been made to the bill to deliver more certainty on this issue, as suggested by the committee. The relevant amendment is in item 10 of the amendment schedule.

Recommendation 12 calls for a change to clause 33(1)(d), which relates to a person in control of a racing greyhound committing an offence if they keep animals of a species which are used for the purposes of bleeding a greyhound on the same premises as the greyhound. The recommendation is for the inclusion of the words, 'could be used for the purposes of bleeding a greyhound'. This particular recommendation has not been adopted by the government. Advice received by government was that to do so may open up the need to specify, for example creating a list of what such animals could be, and in doing so limit its broader application to animals which are not listed but are not at risk.

This is a technical drafting issue and not a matter to which there is a policy disagreement. I am satisfied that the bill as currently drafted is sufficient in this regard.

Recommendation 13 of the committee seeks to amend clause 61(1)(a) to clarify that only the applicant who is seeking approval to conduct a research study needs to satisfy the fit and proper person test. This change is supported by the government and captured in item 12 of the amendment schedule.

Recommendation 14 seeks to amend clause 75(7) by removing the terms of imprisonment in the penalty provisions for this offence, which is for contravening an improvement notice issued under clause 75(2). The government supports this recommendation, and its removal as a penalty is captured in item 13 of the amendment schedule.

Recommendation 15 of the committee has two parts and relates to the issue of traditional hunting practices and how this legislation will interact with the existing legal rights of traditional owners and native title holders.

Recommendation 15(a) of the committee calls for clause 110(a) of the introduced bill to be amended to ensure consistency with a range of legislation relevant to this issue. Legal advice has been received by the government which states that the bill as drafted was not inconsistent with the relevant acts. However, as Minister for Primary Industry and Resources and for Aboriginal Affairs, I believe it is important to acknowledge Aboriginal custom and laws wherever it is possible and appropriate, and that includes in this new Animal Protection Act.

To this end, I requested that a new clause be added into the bill that recognises the right of Aboriginal communities to conduct hunting and fishing activities in accordance with their traditional laws and customs. This addition is item 15 of the amendment schedule and will be done through new subclause 109A(1).

As such, I believe the government has taken the appropriate action to address the committee's concerns on this issue. Recommendation 15b of the committee requests that existing clause 110B of the introduced bill be amended to provide the exercise of Aboriginal tradition or Native Title rights and interests in a manner similar to that provided for under section 41A of the *Animal Care and Protection Act 2001 (Qld)*.

This recommendation also relates to ensuring that the legal rights of traditional owners and Native Title holders are adequately respected. The government is seeking an amendment so that there is a specific

provision for inclusion in the bill making available a defence against cruelty offences for an Aboriginal person whose conduct complies with Aboriginal traditional law or custom. This provides the necessary safeguards to ensure that Aboriginal Territorians can continue to exercise their rights in this regard. However it is important to ensure that Aboriginal people are not exempted from section 24(3) of the bill where it is an offence for a person to intentionally abuse or torture an animal and to do so is contrary to traditional laws and customs and those who engage in such unacceptable actions need to be held accountable under a new *Animal Protection Act*. Item 15 in the amendment schedule to the bill captures the aforementioned new defence.

The government believes it has adequately adapted the bill to the committee's recommendations and I note, for example, that the amendment proposed aligns closely with the Northern Land Council's submission concerning the creation of defences which the Member for Nelson read out this morning. Recommendation 16 of the committee rightly seeks a change to clause 39(b) of the bill which is to remove welfare and in place, substitute the word ethics which is the correct title for the committee that is being referred to. This change is supported by the government and captured in item 11 of the prepared amendment schedule.

Recommendation 17 is the last recommendation made by the committee in its inquiry report. It calls for the government to give consideration to the development of companion animal management legislation to assist in improving animal welfare outcomes in remote communities. As acknowledged by the committee in its inquiry report, this is not a recommendation that relates to the bill before the Assembly and as such there are no amendments proposed.

As I noted before, Minister McCarthy gave some detailed comments in relation to this issue this morning and I thank him again for doing so. How best to improve animal welfare outcomes in remote areas in a cost effective manner will remain an ongoing issue that the government will continue to evaluate, working with key stakeholders, local government bodies and through multiple agencies.

Noting all of these recommendations that we have just discussed and the government's response to each, I would like to once again thank the committee for their detailed and thoughtful work.

My department also works closely with local communities, police and government animal regulators to provide education on animal welfare to those in remote areas. On average, the animal welfare branch undertakes a minimum of 10 community engagement programs per year. Additionally, my department administers an annual welfare grants program, roughly around \$200 000 per year, which serves as a mechanism to promote and improve community animal management programs.