



LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

13th Assembly

SOCIAL POLICY SCRUTINY COMMITTEE

Public Hearing Transcript

8.30 am, Monday, 9 April 2018

Litchfield Room, Level 3, Parliament House, Darwin

Inquiry into the Animal Protection Bill 2018

- Members:**
- Ms Ngaree Ah Kit MLA, Chair, Member for Karama
 - Mrs Robyn Lambley MLA, Deputy Chair, Member for Araluen
 - Mr Chansey Paech MLA, Member for Namatjira
 - Ms Sandra Nelson MLA, Member for Katherine
 - Mrs Lia Finocchiaro MLA, Member for Spillet
- Witnesses:**
- Mr Jean-Remi Champion: Private Citizen
 - Professor Keith Christian: Chair, Charles Darwin University Animal Ethics Committee
 - Mr Paul Burke: Chief Executive Officer, Northern Territory Cattlemen's Association Inc.
 - Mr Tom Ryan: Executive Officer, Northern Territory Cattlemen's Association Inc.
 - Ms Katherine Russell: Research and Policy Officer, Animals Australia
 - Dr Malcolm Caulfield: Principal Solicitor, The Animal Law Institute
 - Dr Kim Smith: Territory President, Australian Veterinary Association
 - Dr Alex Hesford: NT Committee Member, Australian Veterinary Association
 - Mr Graham Pratt: Regional Manager – Western Region, Australian Veterinary Association
 - Mr Danny Moore: Chair, RSPCA
 - Dr Jed Goodfellow: Senior Policy Officer, RSPCA
 - Ms Kristen Lynch: Research and Policy Officer, Northern Land Council
 - Mr Alister Trier: Chief Executive Officer, Department of Primary Industry and Resources
 - Mr Ian Curnow: General Manager Fisheries and Product Integrity, Department of Primary Industry and Resources
 - Mr Peter Zeroni: Director Policy and Legislation, Department of Primary Industry and Resources
 - Mr Peter Phillips: Director Animal Welfare, Department of Primary Industry and Resources.

ANIMAL PROTECTION BILL 2018

Jean-Remi Campion, Private Citizen

Madam CHAIR: Good morning. Thank you for joining us. I am Ngaree Ah Kit. I am the Member for Karama and the Chair of the Social Policy Scrutiny Committee. On behalf of the committee I welcome everyone to this public hearing into the Animal Protection Bill. I acknowledge this public hearing is being held on the land of the Larrakia people and I pay my respects to Larrakia elders, past, present and emerging.

I also acknowledge my fellow committee members in attendance today: Chansey Paech, the Member for Namatjira; Robyn Lambley, the Member for Araluen; and Sandra Nelson, the Member for Katherine.

I welcome to the table to give evidence to the committee, Mr Jean-Remi Campion. Thank you for coming before the committee. We appreciate you taking the time to speak to the committee and look forward to hearing from you today.

This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public hearing and is being webcast through the Assembly's website. A transcript will be made for use of the committee and may be put on the committee's website.

If at any time during the hearing you are concerned that what you will say should not be made public, you may ask that the committee go into a closed session and take your evidence in private.

I will ask you to state your name for the record and the capacity in which you appear. I will then ask you to make a brief opening statement before proceeding to the committee's questions. Could you please state your name and the capacity in which you are appearing?

Mr CAMPION: My name is Jean-Remi Campion, and I am a private citizen.

Madam CHAIR: Thank you, Mr Campion. Would you like to make an opening statement?

Mr CAMPION: Yes, thank you, Madam Chair. I submitted my submission because I am concerned about the proposed bill. I do not believe that it has gone into enough depth to be efficient and to protect the animals sufficiently. That is why I am here today.

Madam CHAIR: I will now open up to the committee for any questions for Mr Campion.

Mr PAECH: Mr Campion, you have raised a point that in the bill it is not mentioned around the desexing of animals in Aboriginal communities. I wanted to go into a bit more detail around what it is that you are wanting or hoping to see in the bill or what could be done to reduce that impact.

Mr CAMPION: Absolutely. In the course of my work I often go into Aboriginal communities and it pains me to see how many dogs and cats are roaming around and seem to be in very poor condition. I find that it is, if I could use the word, inhumane for animals to be living in such conditions and also the relevant health hazard it causes to the Indigenous in the community and other people who work within or nearby the community.

My impressions are, although I may be wrong, that there is not enough funding or enough being done by the department who is in charge of this to initiate or have a program that is efficient in the desexing of animals in order to reduce the amount of unwanted cats and dogs and other animals that live in these conditions due to the way the communities are.

Obviously there is a whole social aspect there in the communities and I do not believe that the cats and dogs are really number one on the priority list, which is understandable. I am thinking that maybe in this bill, or as an annexure of this bill, that a mandatory desexing program for animals in Aboriginal communities could be considered.

Mr PAECH: You talk in there around an education program potentially being delivered as well. Just trying to, I suppose, put it together—you think it would be beneficial for the department to either have a dedicated officer who would work with remote communities around the ongoing desexing of dogs and education or program funding available for a service to come in and deliver that.

Mr CAMPION: I believe that both the aspects you just evoked are very important. For there to be an officer or a person who looks after this aspect of education to communities—and not just Aboriginal communities but

other communities as well, which is also deplorable in some aspects—there has to be funding. One, yes, there does need to be funding available for this to happen. Two, that this funding is used to have an animal welfare officer to go to different communities. Obviously there would be a need for more than one because the Northern Territory is so huge and the workload is immense. There is definitely a need for this.

I did mention in the codes of practice that this should be (inaudible) the codes of practice of the bill, that funding for an animal welfare officer, or similar, is made a permanent position and that this person or persons go to Aboriginal communities and other places to educate people about the welfare of animals and why it is important—and two, why having a desexing program is important and the benefits that it can bring to the animals' health, to the community's health and to everybody's health in general, let alone the humane aspect of it for the animals.

Mr PAECH: Just wanting to touch on—because your submission is one of very few which focuses on places outside of metropolitan or urban environments—when you are talking about the control and desexing of animals, in your experience and part of your report, is it just limited to cats and dogs? I am just trying to get a feel of what level of animals we are talking here.

Mr CAMPION: That is a very good question, a very good point. It is one that I am personally more based on the welfare of cats and dogs, although all animals are important. In my travels and in my work, what struck me foremost were the amount of dogs roaming live in very bad states and causing health problems or possible health problems. Cats being of a more furtive nature, I did not see so much, but obviously it was cats and dogs; although, somebody more versed in that subject than me could say if it extends to other animals as well.

Mr PAECH: You mentioned in the submission the potential for an electronic register around animal protection. Can you just give us a bit of an overview of how you think that would work? If we were to have a register, who would be able to obtain that? Is that something that if a person is wanting to adopt an animal from the RSPCA or from a veterinary clinic or a pet shop—do they have access to that? To what extent would the register be accessible for people?

Mr CAMPION: Understood. In my line of work (inaudible) we have information from JESCC, Joint Emergency Services Communication Centre, if a place we are going to has someone who is known to the police who is dangerous, an arsonist et cetera. I am thinking on the basis of where animal welfare officers who are called out to an investigation, a routine call, that they are informed that this person has already been convicted, suspected of or investigated about animal welfare treatment.

That is my line of thought so that when the animal welfare officer goes to the place he has been called to because it has been reported that an animal is sick or has been mistreated, by some means of communication in his brief it is stated that this person has previously been convicted or been investigated. That way, the animal welfare officer is forewarned and can also take, for his own safety, necessary precautions in case there is some threat to him or that animal. Once the officer has been there and surmised the situation and left—without that information he cannot know if that will not reoccur because it has already reoccurred and has been listed in this register.

Basically, the register is an information databank with relevant information to the mistreatment of animals that all animal welfare officers and police have access to so they are forewarned of the situation to which they go into. Also, they know that this guy has done it three times before so they will take more action in this visit than if it was just an action that we do not know what has gone on there before. It is to give the officers concerned more information to be able to act accordingly for the benefit of the animal.

Also, back to your question concerning people buying or adopting an animal from RSPCA. It is not meant for the public, it is meant for animal welfare officers.

Mr PAECH: So, it is not a Banned Drinker Register for animals?

Mr CAMPION: No, not of the sort, no.

Mr PAECH: Thank you, Madam Chair.

Madam CHAIR: Thank you. Are there any further questions?

Mrs LAMBLEY: I share your concerns about how animals are cared for in remote communities. I come from Alice Springs. Probably about four or five times a year someone comes into my office and says, 'I am really

concerned about the treatment of dogs' or even horses. That is the latest complaint we have received in my office. My impression is that this legislation really does not address the treatment of animals in remote communities. Would you agree?

Mr CAMPION: I would, Madam Deputy Chair, yes. Absolutely.

Mrs LAMBLEY: So, whilst it might improve the lives of animals in town, we still have a lot of work to do. Some of the recommendations you have made go towards that. I am interested in your ideas. This is a public hearing, people will be listening. What would be the main changes you would make if you could recommend changes to the way government operates in the space of caring for animals in remote communities? What are your main recommendations?

Mr CAMPION: I join to what I have just discussed in having funding available for officers to look after that domain, where it is lacking, as you correctly mentioned. It is more in urban areas at the moment. So, there is obviously need for funding for the department to have officers who are able to go out to remote areas and look after education and inform people—as education is always key in prevention of, I will say crime, as the mistreatment of animals is a crime in a way. But also the ignorance—not ignorance in a bad term. I am not talking down ignorance, but ignorance of being aware of the importance of how one should look after animals, not only for the animal's sake but for the community's sake.

Such programs should be in place. How they should be formed and put into place are above my level of capability and what I am here today for. However, the remote Aboriginal community issue, as you correctly say, is a big issue. It needs to be addressed. I believe that by addressing it with programs, with the legislation that backs it up—there are so many issues where there has been mistreatment of animals and because there is no legislation, the judiciary cannot impose the correct ...

Ms NELSON: It is not enforceable.

Mr CAMPION: Enforceable, exactly. That is the purpose of my submission. Coming back to your interest Madam Deputy Chair, it is necessary to set up the programs. It is necessary to bring awareness to the people but also to other parliamentarians, to people in departments who need to be aware of that issue. It is an ongoing problem and it will only get worse if we do not address it.

Ms NELSON: Are you aware of AMRRIC?

Mr CAMPION: No I am not.

Ms NELSON: So, AMRRIC is the Animal Management in Rural and Remote Communities. It is a not-for-profit and the funding they were receiving was from the federal government and some Northern Territory Government funding as well. All of their funding was cut so now they are completely reliant on philanthropic donations, private donations and fundraisers.

That was their key role, to travel to remote and regional communities. They conducted community education sessions, provided animal welfare checks, did desexing programs. They also produced a lot of educational material to provide to schools for children. That is the sort of thing that you are talking about, is that right, when you are talking about community education and raising awareness about animal welfare? Similar to that?

Mr CAMPION: It is along those lines, yes, I would agree with you. It is strongly disadvantageous for organisations and associations like that who do not receive the correct funding or enough funding. However that is on one level. Behind those people we need the legislation that can back them up. Without that legislation, animal protection bills that have strong enough legislation to enforce the good work that they are doing, their work is good but it is not effective enough. It is effective but not effective enough. As Madam Deputy Chair has mentioned, there are x amount of cases of abuse of horses, dogs and cats in the community that go on and on and on, because there is no legislation to back up the good work of people like AMRRIC.

The department should also have the funding to have officers out there to back them up. It goes hand in hand. If you have an association doing good work, if there is no legislation to back them up or to propose a deterrent, then the problem will go on. Education is a big key, yes.

Ms NELSON: I really appreciated your submission. It was very thorough and very articulate. I think some of the things that you have raised, to me, come under the responsibility of councils. I agree with you though, if there is not the legislation to back it up, as you said, it makes things a bit difficult.

Madam CHAIR: Mr Campion, you touched on the importance of education and being proactive in the space, which is really important and I agree wholeheartedly. In your experience, have you seen many local people out on remote communities whose jobs are in place to educate others on looking after animals or making sure that those stray dogs or cats roaming around the community are looked after, desexed, fed, given their immunisations—anything like that in your experience?

Mr CAMPION: No, Madam Chair, I have never seen that.

Madam CHAIR: Do you think that would be a good idea? Rather than having visiting animal welfare officers, let us say from Alice Springs or Katherine or Darwin going out to remote communities doing the great work—and I have heard of AMRRIC and the great work that they do—having local people in communities taking on that responsibility to look after what is essentially their own backyard?

Mr CAMPION: Absolutely, Madam Chair. That would be in the same vein as having Aboriginal community police officers. The same thing where it is the people of that community who are taking the interest in their community and are encouraging their community to be kinder to animals, to stop domestic violence. All that agenda of issues is better treated at that level which you just mentioned; absolutely, yes.

Madam CHAIR: It would be a great opportunity. I remember as a young person owning our first pets and taking the responsibility, the love and the warmth that come from looking after them—taking more responsibility at a young age. That is a real opportunity that a lot of Territorians could experience.

The other thing I was thinking of as well, Mr Campion, was in regard to the register you suggested. It is a good idea and I see the value that could come of that. What I am looking for is an opportunity for people who have done the wrong thing and mistreated animals—whether you would support that they could go through some sort of rehabilitation where they are able to undertake further educational training to get a tick so they could be removed from that banned register. I guess with that level of education they might have a better understanding on how not to mistreat their animal, but also how to value their welfare and go the extra step to be a really good pet owner.

Mr CAMPION: That is a valid point, Madam Chair. However, in my studies I have researched quite a bit on recidivist animal abusers. They are—and it has been proven in studies; I have documentation here for you—like women beaters and other types of people who abuse children. It is a sickness, if you like, of people who treat animals as lesser beings than themselves, just as a person who abuses his wife or partner or child has that same mental thinking that that person is lesser than them. It is proven in studies that often recidivist people are those who were beaten as a child or were subject to family violence.

My point is that if that could be captured, dealt with and educated, that would be great. However, sadly, as we see in our lives today, in the courts every day, there are a lot of recidivists—whether it is animal abusers, child abusers, or female abusers. It is a big job. If there was some way of effectively addressing that, that would be great. But I am pretty sure you would agree with me, if I allow myself to say, that would be pretty low down on the priority of any government or department—looking out for educating animal recidivists, whether you have recidivists who beat children or abuse women, if you understand my meaning. It would be pretty low down on the priority list.

If there was a program, that would be good. Would it work? I do not have the capacity to say if it would work or not. In theory, it is a good idea, yes.

Madam CHAIR: It leads me to my next question in regard to a vetting process before someone takes ownership of a pet or an animal. The Member for Namatjira touched on that. I was thinking of an RSPCA situation where we need really responsible community members to be able to take in unwanted animals and provide a loving home for them. If we were able to go through a vetting process where we could see that the register is clear—they are not on the register for mistreating animals previously, have a well-fenced yard, a stable income, are able to provide food and have a really good understanding and mental capacity to be able to care for an animal. I am wondering what your thoughts would be on something like that.

Mr CAMPION: That would be ideal. But also what we need to be aware of—and I am sure we are—is that people can get hold of a dog on Darwin Buy, Swap and Sell, from a mate or whatever, and use it for whatever purpose—pigging or whatever abhorrent use, which is completely detrimental to the welfare of the animal. How it is kept, how it is cared for or not cared for, as the case may be, can go below that radar. It is a good start, absolutely. For law abiding citizens who go through the right process, that would be great. However, unfortunately, as we all know, it is so easy to fly under that radar and get hold of a dog, a cat or whatever.

Hence, my concern that the legislation as proposed is not strong enough for where, for example, a neighbour reports another neighbour for mistreating their dog and that dog was not obtained through such a register as you mentioned. The legislation has to be stronger to enforce the due care and the duty of care is applied to animals, as well as animals out in the pastoral areas where there has been x amount of cases of abuse. That is a good theory but also, once again, applying it globally where there are so many ways to fly under that radar is yet another problem. I think that is the society that we live in today, unfortunately, but it is taking a step forward to that solution to that problem.

Madam CHAIR: Are there any further questions from the committee? No further questions. I would like to say thank you very much for appearing before the public hearing today and for providing a submission into the Animal Protection Bill. Thank you, Mr Campion.

Mr CAMPION: Thank you for taking the time to hear me.

**Charles Darwin University Animal Ethics Committee
Professor Keith Christian, Chair**

Madam CHAIR: Good morning, Professor Christian. On behalf of the committee, I welcome you to this public hearing into the Animal Protection Bill and thank you for giving evidence this morning. We appreciate you taking the time to speak to the committee and look forward to hearing from you today.

This is a formal proceeding of the committee, and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public hearing and is being webcast through the Assembly's website. A transcript will be made for use of the committee and may be placed on the committee's website.

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I will ask you to state your name for the record and the capacity in which you are appearing. I will then ask you to make a brief opening statement before proceeding to the committee's questions.

Could you please state your name and the capacity in which you are appearing this morning?

Professor CHRISTIAN: Keith Christian, I am a Professor at Charles Darwin University and I am the chairman of the Charles Darwin University Animal Ethics Committee.

Madam CHAIR: Fantastic. Professor Christian, would you like to make an opening statement?

Professor CHRISTIAN: Thank you for the opportunity to have input today and also previously we had the opportunity to have input before the legislation was written, and we really appreciated that opportunity.

The current act has some, I would say, confused definitions and it is obscure in parts pertaining to the scientific use of animals in places so that at present there is the very strong possibility for researchers to be non-compliant, completely unintentionally and unknown to them, just because it is difficult to understand. I believe this new legislation is much clearer and will solve most, hopefully all, of those problems.

Having said that, I am not a lawyer and I found some of the legal terminology and logic a little strange. Hopefully I might have the opportunity later on to ask a question pertaining to that.

Mostly the Animal Ethics Committee deals with part 4 of the act, scientific uses of animals. The committee has wide-ranging experience with veterinary, animal researchers, people from the community, people that are members of animal welfare organisations, and many of these people have been working in these areas for many years.

The committee took the opportunity to make a few additional points outside part 4. About half our comments are pertinent to part 4, scientific use, and the other half pertain to other sections. In those other sections, it is more opinion that we have based on experience whereas with the section part 4 we have a great deal of experience with respect to the scientific use of animals.

With respect to those comments, the first of those comments is in some ways possibly the most important in the sense that I am sure it is an error and it is just a matter of correcting a single word. It is important, we

believe, to avoid confusion in the future. The other comments are more opinions related to grey areas that are not necessarily a point in fact but are opinions of the committee.
Shall I speak to that first point?

The first point that we raised deals with section 39(b); there is a statement that deals with the accreditation of the committee and it states the accreditation of an animal welfare committee under this part. But this part is actually referring to animal ethics committees, and animal ethics committees are not synonymous with animal welfare committees. That word 'welfare' needs to be changed to 'ethics'.

Madam CHAIR: Thank you for clarifying that. I will now open it up to the committee for any questions.

Ms NELSON: I have a quick question on the point you raised in regard to the name of the committee and the scope of each committee. You do not think that we should have both, or should it just be the one?

Professor CHRISTIAN: It is just that from a logical point this whole section is dealing with scientific views and that is what ethics committees deal with. An ethics committee deals with the use of animals for teaching or research whereas welfare committees are much broader than that. It seems out of place and I think it is the wrong word used in that section.

Mr PAECH: Touching on section 115, the automatic ban for multiple offences. In the submission provided does CDU AEC feel that is too lenient for multiple offences and that three or more offences, regardless of the time occurred, should constitute an automatic ban. You believe that should be a lifetime ban?

Professor CHRISTIAN: I believe that was the premise, the feeling of the committee. In other words, if they have not learned the lesson after a few times, are they ever going to learn the lesson? That was our opinion.

Mrs LAMBLEY: Did you say you were consulted during the drafting phase of this legislation?

Professor CHRISTIAN: Yes I was.

Mrs LAMBLEY: Are you generally happy with the legislation? Do you think it is a significant improvement?

Professor CHRISTIAN: Yes. Yes, very much so.

Mrs LAMBLEY: Right.

Professor CHRISTIAN: I am a bit confused—as I said, I am not a lawyer—by Part 4, referring to a 'person', when in fact, that 'person' may refer to the institution—Charles Darwin University, Department of Primary Industry. I am not used to that nomenclature. Scientists reading it will initially be thinking that they, as individuals, need to register with government when, in fact, their institution will have done the registration on their behalf. It was made clear to me at those preliminary discussions that that is the way legislation reads.

But, if I could, I will go on to say that where it confuses me is in the section—on the version of the draft legislation I have it is on page 35—subsection (2) dealing with penalties. There are exemptions to those penalties for people who are engaged on behalf of a registered person, or for a student undertaking something on behalf of their studies. I am confused by the exemption because it seems to be exempting individuals when, in fact, we made clear in our initial submission that both institutions and individuals need to take responsibility and be held responsible.

So, maybe I am misinterpreting that section, but I am not sure why it is necessary to exempt individuals, even though they may be working—certainly I would say if they were doing something as a direct instruction from a registered person, then I can see that the registered person who bears the responsibility, but otherwise, individuals should be held responsible. For example, for large institution like the Department of Primary Industry or Charles Darwin University there would be dozens or maybe even hundreds of researchers, and the CEO of that institution cannot be watching every person at a time. So, if someone may stray from what they have been permitted—that is not the right word—an approved project. If they go outside that approved project, we believe they should be held responsible as an individual.

If you could maybe just check that wording and see if those exemptions under that section are the intent?

Madam CHAIR: We can do that. We can ask that of the Department of Primary Industry and Resources, which is our last guest at the end of today.

Professor CHRISTIAN: Okay. I will say one more thing about that. As to students, maybe people are thinking in terms of primary school students and students who are really under instruction of a teacher. But, in fact, student also applies to say, a PhD student at a university, who would be required to have animal ethics approval, but then would be working pretty much independently. It is under that period of independent research and activities that they could go astray and do something that was not on their approved project. In that case, they should be held responsible.

Madam CHAIR: You raised a good point, professor, in regard to that. Once the CDU Animal Ethics Committee has provided ethics approval to a PhD student to carry out their research or project, where is the follow-up? Where is the obligation to ensure that student is sticking to the approval provided by your committee?

Professor CHRISTIAN: Okay. There are annual reports. They have to report annually. Also, every year, they are subject to annual inspections and inspections can be unannounced. We have the ability to have unannounced inspections if, for any reason, we thought something inappropriate was going on. Certainly, much of the work is environmental science work, so it is in remote locations and there will not be someone watching them all the time. But there are accountabilities with the routine reporting procedures.

Madam CHAIR: Students feel comfortable coming back to the ethics committee if they have any questions in regard to the next step in their process, or where there might be blockages where they cannot adhere to the approvals they have been provided.

Professor CHRISTIAN: We certainly hope so. There is another layer in between. We have an animal welfare officer who acts as a liaison and so they would not necessarily have to come all the way back to the committee. There is an animal welfare officer who is a veterinarian who has the authority to act as a veterinarian for one thing but also to liaise with the committee, and that person is very well versed with the code of practice and the legislation. Any routine questions they could answer off the top of their head.

Madam CHAIR: Any further questions from the committee?

Ms NELSON: I just have one quick question. Professor, during the consultation period that you talked about earlier, did you raise the issue of the name of the Animal Welfare Committee versus the Animal Ethics Committee? Did you guys talk about that?

Professor CHRISTIAN: No but the legislation at that stage—this was more than a year ago, so the legislation was nowhere near in this form. We only picked it up when the committee reviewed it a few weeks ago.

Madam CHAIR: Professor, you raised the point in your submission for section 61(1)(a): an accredited animal ethics committee must not grant a project approval unless satisfied that each person involved in undertaking the project is a fit and proper person. You raised the scenario where currently assistants and volunteers can participate in research and whether or not each person who volunteers or assists a fit and proper person in their research must undergo that vetting process. Can you explain a bit about that please?

Professor CHRISTIAN: That is one thing that the current act does do pretty well, that is, it defines a volunteer as being someone who may be working with animals under direct supervision of someone who does have animal ethics approval. I think everyone is very clear what direct supervision means; they cannot do anything on their own. We often, as a matter of course of doing our deliberations, make it clear or ask questions to clarify: Is this person going to be working alone, are they going to be working under direct supervision? If they are going to be working alone then they need to go through the entire process. That is in the current act and it works pretty well.

We just noticed that there is no provision for those sorts of volunteers in the new act. The only reason that is a problem is because these things take time and often volunteers are more of a spur of the moment sort of thing. As long as they are working under supervision, I do not think that is a problem. In a way, this might limit the number of volunteers that could be working on something like this because they would have to go through the entire process and could not join a project at the last minute.

Madam CHAIR: So you would like to see that the current provision in the current act remain as is?

Professor CHRISTIAN: Yes, for volunteers. A very clear definition of what a volunteer can be and can do and that they have to be under direct supervision. But if they are under direct supervision then they are not required to be vetted, essentially, by the Animal Ethics Committee.

Madam CHAIR: Thank you very much. Are there any further questions from the committee? No further questions. Do you have anything you would like to leave us with in closing?

Professor CHRISTIAN: In relation to the last point that was about the definition of what research is—and this is something we, at times, struggle with. The reason this is a potential problem is that the code of practice for the scientific use of animals is very stringent in describing what research is. For example, a researcher who wants to study bird behaviour—goes out and watches birds through his binoculars for scientific purposes—requires animal ethics even though that is a very non-invasive kind of procedure. That person requires animal ethics approval when they go to publish that research. The journal will be expecting to see that they have had ethics approval.

That one end of the continuum is fine. At the other end of the continuum is bird watchers who go out to watch birds with their binoculars, and they should not need the animal ethics approval for that. At the two extremes it is fine.

It is in the middle that there are some grey areas, particularly with recent advances of citizen science where people are doing things and collecting data that may ultimately lead to a scientific publication or something like that. It starts to get a bit grey. The way we define it is research-like activities that schools or community groups might be engaged in which, with a very strict interpretation of the act, would mean they would have to follow a very strict interpretation of the code of practice, which means they would need animal ethics approval. We do not think that is the best way to go. There should be flexibility for these community-based activities to occur. Maybe a simple solution would be to distinguish between professional research and community engagement, as a distinction between those two kinds of activities.

Ms NELSON: Touching on that—Madam Chair, thank you—would that extend as well to high school activities?

Professor CHRISTIAN: That is a very good point. I have suspicions that under the current act there are a lot of school activities that do not comply with the act that maybe the new legislation ...

Ms NELSON: Does not address that.

Professor CHRISTIAN: ... does not address that. Again, any of those activities—if a school has a pet hamster as a pet that is fine. If they have a hamster that they run in mazes and do experiments on as part of the education profile, then that fits under the category of scientific use of animals. As the act reads now, it should go to an animal ethics committee. Setting up an animal ethics committee is not a trivial exercise ...

Ms NELSON: No.

Mr CHRISTIAN: They include veterinarians—there are a lot of people involved and a lot of administration. Probably a more direct and easier solution to that problem would be that the school is required to have the teachers discuss it and the principal be aware of the activities. Maybe they have their own internal ethics committee, but that is not necessarily the type of ethics committee that is constituted under the code of practice, which is much harder to accomplish. It is an excellent point that schools in general have not been addressed, but there are easy solutions to that problem.

Ms NELSON: Wouldn't that change things.

Madam CHAIR: Thank you. That was a very interesting point. Any further questions from the committee?

Mr PAECH: No.

Madam CHAIR: No further questions. Thank you very much for appearing before the committee today, Professor Christian, and providing a submission to the Animal Protection Bill.

Professor CHRISTIAN: Thanks for the opportunity.

Madam CHAIR: The committee will now move on to our next public hearing appearance at 9.30.

Northern Territory Cattleman's Association Inc.
Paul Burke, Chief Executive Officer
Tom Ryan, Executive Officer

Madam CHAIR: Thank you for coming before the committee. We appreciate you taking the time to speak to the committee and look forward to hearing from you today.

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If at any time during the hearing you are concerned that what you will say should not be made public, you may ask that the committee go into a closed session and take your evidence in private.

I will ask you to state your name for the record and the capacity in which you are appearing. I will then ask you to make a brief opening statement before proceeding to the committee's questions.

Could you please state your name and the capacity in which you are appearing?

Mr BURKE: Paul Burke, Chief Executive Officer, Northern Territory Cattleman's Association.

Mr RYAN: Tom Ryan, Executive Officer from the NTCA, freely and voluntarily with thanks.

Madam CHAIR: Thank you for clarifying that, Mr Ryan. It is always good to put that on the record at the start.

Ms NELSON: I think Paul is happy to clarify that.

Mr BURKE: Yes, we are happy to be here.

Madam CHAIR: Very good and thank you again for putting a submission into this bill. Mr Burke or Mr Ryan, would you like to make an opening statement?

Mr BURKE: I will make a very brief opening statement. The Northern Territory Cattleman's Association is the peak industry body representing cattle producers throughout the Northern Territory. We represent about 90% of the industry, some 700 000 square kilometres and 2.1 million cattle. We are here largely in support of the bill but we would like to clarify certain areas of the bill.

Whilst we are largely supportive of the bill, we believe that the current Animal Welfare Bill is what the bill should be called as opposed to the Animal Protection Act. We believe that animal welfare has a prescribed outcome and a prescribed definition, whereas animal protection is subjective and is not consistent with all other states. That is one of the key areas.

The second area we have some concern about is how the regulations will interact with the act. We have outlined two of those within our submission and we just need some clarification around those. Also, we probably would like to understand how the act will interact between the *Livestock Act* as well, so that principally is what we would like to talk about today. We are here to answer questions and give clarification on any areas you would like more clarification on.

Just to reiterate, we support largely the intent of what you are trying to achieve here but we believe that it is animal welfare outcomes we are looking for, not animal protection in our sphere. We would like that recorded.

Madam CHAIR: Thank you very much, I will now open it up to the committee for any questions of the Northern Territory Cattleman's Association.

Mr PAECH: Thanks, Madam Chair. Gentlemen, I am just curious. In item four of your submission, the association talks about its concern about the implementation of sufficient standard operating procedures for non-veterinarian authorised officers. Just wanting to understand—as a bush member myself, I know that a lot of pastoral properties are quite large in size and I do not think we should expect a station owner to call a vet when there is not a vet for at least eight hours. In the association's position, what do you deem suitable? My personal view is that I would imagine that all pastoral property leaseholders would be non-authorised officers. Is that the view of the association?

Mr BURKE: So firstly, you are right. The sheer geographic size of the Northern Territory, the lack of availability to vets—if an animal is suffering that needs to be dealt with as quickly and as humanely as possible. There needs to be the flexibility to ensure that happens. All pastoralists take animal welfare pretty seriously. The fact that if I am sitting on a property on the West Australian border with the Northern Territory, somewhere towards the centre, I am realistically probably 10 hours away from a vet. So I need to be able to deal with whatever the situation is, whether it is a broken leg of a horse or a cow that is breeched while calving.

Our members and our pastoral industry have been dealing with this for generations. They are bush vets by definition. They do a lot of routine procedures themselves so they are certainly the best qualified and, by location, the most suitable person to deal with any animal welfare outcome.

Mr PAECH: Just following on from that as well, I note that the NTCA is concerned around the investigation matters of people reporting animal cruelty or lack of protection and that there were very few safeguards in the bill to ensure that authorised officers have the knowledge around the cattle industry or the livestock industry. Do you have any potential views or recommendations for the committee on how that could be strengthened?

Mr RYAN: Certainly, that is a really good example of how the regulations, when they are made available, will be really important to our industry. The way the act is worded, a lot of the powers of delegation will fall on the Chief Executive. That will be delegated within the regulations. We will be really interested to see those when they come out. This is also a really good example of where the interaction between this act and the *Livestock Act* will come into play.

The current *Animal Welfare Act* and the *Livestock Act* have interacted very well. Throughout history they have served us quite well. The powers of delegation for investigating production animal welfare issues have largely been dealt with through the *Livestock Act* and have been done so very well. Within the department there are appropriate skill sets within the staff, particularly the regional livestock biosecurity officers. We feel that those skills are really appropriate for managing those types of issues. We would really like to see that production animal welfare issues continue to be dealt with through the *Livestock Act*.

The concern you have noted, Mr Paech, is about the delegation of authorised officers by the Chief Executive. One example would be, let us say there is an incident at an abattoir. If you have a welfare officer designated by the Chief Executive who has never been to an abattoir before who is sent to the abattoir to investigate that incident—abattoirs can be confronting places for people who have never been in one. This is why we will be interested to make sure those powers of delegation are given to those with appropriate skill sets and experience over time.

It is also exactly the same scenario for a welfare officer being sent to a cattle station. If they have no history or experience of a cattle station or production issues, then that can really cloud the judgment of any action being taken.

By and large, that note in our submission was about appropriate skill sets are applied when those powers of delegation are given by the Chief Executive.

Madam CHAIR: You have a question?

Ms NELSON: I have one quick question in light of what has come up in the news recently about live export and sheep. Can you explain to me, as a lay person, how this would influence live export?

Mr BURKE: It is a topic I have talked a lot about in the last four days, for obvious reasons. The footage was distressing, even for someone coming from the industry. The feedback we have had from our membership and executive is it is confronting for everyone. The difference in live export, from our destination, is we are predominantly—exclusively—exporting tropical breed cattle, generally on a short haul trip between four and five days into a very similar climate—from Darwin in November into Indonesia in November. It is pretty similar in climatic position. It is a pretty short haul.

We take animal welfare in the live export industry extremely seriously. Obviously, over the last six or seven years, we have had to improve our outcomes. We believe we are leading the world in live export standards in the cattle trade. We have implemented lifetime traceability throughout the supply chain. We have a very good record in that supply chain. We spend a lot of resources—both time and money—in training people in country. We have a very good track record in Indonesia and Vietnam. We are currently building a training abattoir in Vietnam to train people.

In our exposure to live export and animal welfare standards, we think we are doing a really good job and are leading the world in what we are doing. We need to stand proud about that.

Whilst what has happened in the sheep industry in Western Australia is distressing on everyone, it comes back to we need to be vigilant in what we do. We need to continue to strive to improve our animal welfare outcomes. We need to take it seriously and be transparent and we fully accept that.

Ms NELSON: Do you think that this legislation is going to be supportive of that, or of you to be able to do that? Do you think it goes far enough?

Mr BURKE: I certainly do. I think there is a significant amount of regulation federally. It is overseen by the Department of Agriculture federally. I think there is currently a review into the Australian standards for live export which obviously everyone will have an opportunity to feed into. I think the protections for animals are there.

If there is a breach, that breach is reported quickly and it is rectified immediately. I think we need to be able to rely on our social licence to operate in this space. We need to know and be able to stand up proudly and say we are doing the very best we thing we can in that space and I think we are. No doubt some of your other presenters will probably be touching on live export over the coming sessions but my opinion is that it is not particularly relevant to what we are discussing today, given its federal.

Mr RYAN: Just to add to that, once animals are exported, it is federal legislation that covers that, but I think the NT's record by and large speaks for itself. The previous *Animal Welfare Act* in the NT has done a very good job of ensuring that animal welfare is managed, and I think this bill will go even further to ensuring that happens. So we think it has been strengthened quite sufficiently and we certainly support all those aspects of this bill that seek to make sure that continues.

Ms NELSON: Thank you. I am fully aware that is a federal—once it is exported it comes under federal jurisdiction. I just want to make sure that we are supporting our industry as well, and our legislation is strong legislation in regard to animal protection and animal welfare, and just because it is going off, we are not absolving.

Mr BURKE: The other component that I think the Northern Territory Government can stand proud behind is the development of the Berrimah yards. The covering of the Berrimah yards will have a significant benefit for animal welfare. I do not know whether the committee has been out there but standing under there it is significantly cooler than most sheds or most yards you will stand in anywhere in the Northern Territory. I think the Northern Territory Government should be congratulated for that.

Mr PAECH: I just wanted to touch on, if I may, talking about the regulations and exemptions for—I think you had some concerns around baiting and the electrical devices, which I am assuming are prods?

Mr BURKE: Yeah.

Mr RYAN: Correct. So that is another example where the Act itself basically prohibits the use of electrical devices. I think the wording is a person commits an offence if the person intentionally administers poison to an animal, which is essentially what baiting for wild dogs is.

Another example of where the regulations are going to be quite important. The use of electrical devices, obviously we fully support the banning of those but it will be really important that we are allowed to use electric prodders in the regulation the same as it is currently. It is really only just noting that the legislation itself does not make allowances for those and it stipulates that it can be made in the regulations, but we just wanted to flag that those will be an important point when they are developed.

Mr PAECH: Again, you would, and I am making an assumption here, but you would anticipate that like it would be for an authorised officer for the non-veterinarian to destroy an animal, that there would be along the same lines as that of dog baiting for pastoral properties.

Mr BURKE: So dog baiting—currently you need to gain an accreditation, so there is quite a detailed accreditation process. It takes four days, from memory. So we believe we have got the right protections and there are certain things you can and cannot do in a dog baiting space—proximity to townships and communities—and we think that what is in play currently satisfies the needs of our industry. We would like to see that maintained.

Mr PAECH: So would it be, do you feel it would be better to have this outlined in legislation rather than a regulation which could potentially change given the nature of people coming in and out of particular roles within the department or agencies?

Mr RYAN: Probably not. It would be nice to have it legislated, but the purpose of what this bill is trying to achieve, it is probably not feasible. From our industry, we would like to think we have enough goodwill to see that covered. This bill will encourage appropriate use of that. There are protections in there to make sure, for exemptions given under the regulations, you still must use those appropriately and you cannot use them in a cruel manner. If you are found to be using them in a cruel manner, you can be prosecuted under this Act. One of the good things about this bill is it gives animal welfare inspectors much greater powers to investigate and prosecute offenders of cruelty.

The bill is worded quite well, but we wanted it put on record that the regulations—particularly those we have outlined there—will be important for us going forward. In supporting that, we just want to make that known.

Mr PAECH: Yes, thank you.

Madam CHAIR: My question goes to the kind of measures that currently exist to ensure that pastoralists are, in fact, doing the right thing by the animals they are responsible for. Can you give me a bit of background to what NTCA does to ensure that pastoralists are protecting or caring for the welfare of their animals?

Mr BURKE: Predominantly, the Northern Territory Cattlemen's Association runs four meetings per year in each area. At the September meetings, we had the Northern Territory Chief Vet, so we do a lot of education and extension. As the NTCA—me or the Executive Officer—we would be speaking with the department, principally the Chief Vets Office, at least on a weekly basis and sometimes more often. If there are issues, they are flagged with us early and we work with industry to ensure that people understand what the requirements are.

Principally, the issues we are dealing with regularly are about having animals that are compliant for loading or travelling—they have an ear tag and are clearly branded. In animal welfare, in the short time I have been here, we have not had issues like other jurisdictions. Part of the beauty of the Northern Territory is pastoral sector is pretty close, as in we come together on a regular basis. They are a very professional group of producers. There are a lot of larger corporates within the sector who work across multiple jurisdictions and spend a lot of money out of their own pockets in training their staff.

We are better placed than most other regions to actually drive better animal welfare outcomes. If you talk to producers on the ground, they have a really good understanding of what is required from them. There is a livestock production insurance scheme, which allows producers to be able to sell. It is an industry-led scheme that has a biosecurity module within it. It has 11 key areas within it and anyone who is selling cattle—sorry, and animal welfare—has 11 standards that every single producer, if they are to sell cattle to an abattoir or into live export, need to be a member of and need to understand.

We do a pretty good job.

Mr PAECH: That is probably evident. You have the program Future NTCA?

Mr BURKE: Yes.

Mr RYAN: Yes.

Mr BURKE: The Future NTCA program. That will often guide us in a lot of our policy making. Things that will transcend the next few generations are areas that we will consult to. They often report back to the board on specific issues.

Mr RYAN: There is also an enormous science and work that goes in, particularly through Meat and Livestock Australia—the levy-funded research and service bodies. Over the years they have done enormous amounts of work in the science around welfare for animals and that sort of thing.

One of our core functions as an association is to promote that science and make sure our members are aware of what the best practices are. Through the Future NTCA they are getting more and more in touch with this sort of thing all the time. The next generation coming through have much better access to that information. Generally, we see much younger people coming through the industry having much stronger training and are very well aware of that science.

Mr PAECH: Yes, no worries. I have read the submission. Is there anything in addition you would like to see in the bill?

Mr BURKE: Apart from changing it from the Animal Protection Bill to the Animal Welfare Bill, we are pretty comfortable with where it has landed and congratulations to everyone on the amount of work they put into it.

Madam CHAIR: NT Cattlemen's Association was a part of the lead-up to the development of the bill?

Mr BURKE: That is correct, yes.

Madam CHAIR: I wanted to clarify that.

I want to note for Hansard and welcome Lia Finocchiaro, Member for Spillett, for joining the committee.

Any further questions from the committee for the NT Cattlemen's Association? No further questions. I thank Mr Burke and Mr Ryan from the NT Cattlemen's Association for appearing before the public hearing today.

Mr BURKE: Thank you.

Mr RYAN: Thank you very much.

Animals Australia
Katherine Russell, Research and Policy Officer

Madam CHAIR: Good morning, Katherine. Can you hear me?

Ms RUSSELL: Yes I can although it is breaking up a little.

Madam CHAIR: My name is Ngaree Ah Kit. I am the Chair of the Social Policy Scrutiny Committee. On behalf of our committee I welcome everyone to this public hearing into the Animal Protection Bill. I welcome to the table to give evidence to the committee by teleconference Ms Katherine Russell, Research and Policy Officer for Animals Australia.

Thank you for coming before the committee this morning. We appreciate you taking the time to speak to the committee and look forward to hearing from you today. This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public hearing and is being webcast through the Assembly's website. A transcript will be made for use of the committee and may be put on the committee's website.

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I will ask you to state your name for the record and the capacity in which you appear. I will then ask you to make a brief opening statement before proceeding to the committee's questions. Could you please state your name and the capacity in which you are appearing?

Ms RUSSELL: My name is Katherine Russell. I am appearing as the Research and Policy Officer for Animals Australia.

Madam CHAIR: Thank you, Ms Russell. Would you like to make an opening statement?

Ms RUSSELL: Thank you. I am speaking to you all today on behalf of Animals Australia. As you will be aware, we are a peak animal protection organisation. I would like to begin by first sharing what we see as the positive aspects of this bill.

First we strongly support the objectives of the bill which includes, among other things, the prevention of cruelty and ensuring that animals are treated humanely.

We also welcome the shift from animal welfare legislation to animal protection legislation contemplated by this bill. Our view is that this shift not only reflects community expectations surrounding how we ought to treat animals but it also accords with the current scientific research in the animal welfare domain. This research

tells us that we must do much more to promote animal welfare than merely prevent cruelty. Therefore the notion that we must protect animals is an important one and is one that we support.

We also specifically commend the intentions behind a number of aspects of the bill. We have highlighted those at length in our written submission but to offer a few examples now:

- the minimum level of care articulated in the bill, which includes instances where conduct is likely to cause suffering
- section 22 on obligations, which clearly articulates people have two distinct duties with respect to animals, both to protect from cruelty and to actively promote their welfare
- section 35, which provides veterinarians with the power to alleviate suffering by euthanising animals in certain contexts
- section 42, which places increased responsibilities on individual persons conducting experiments using animals
- section 83, which provides powers of entry to authorised officers that are broader than those under the current Act
- and section 115, which provides for an automatic ban on owning animals for persons who are found guilty of multiple animal cruelty offences with a period of years.

Turning now to briefly address some of the concerns that we have regarding provisions in this bill. First, the definition of an animal contained in the bill is too narrow and fails to reflect scientific knowledge regarding the sentience of some species of animals. The bill does not adequately define what constitutes suffering, harm or pain; this means that the court may narrowly interpret these terms to include only physical suffering and our view is that suffering must be defined by the bill to include both mental and physical suffering.

Most of the bill's substantive cruelty offences require proof of intention as an element of the offence. The result is that this will make it unduly difficult to establish guilt. No other Australian jurisdiction has this type of requirement. The bill makes use of some qualifying terms such as words like 'appropriate' and these are not adequately defined by the bill. Our concern here is that these words can be used to justify cruelty in certain circumstances.

The bill is a little unclear with respect to how an Animal Ethics Committee must be composed. While we note the definition of an Animal Ethics Committee in the bill does refer to one that is comprised under the scientific code, the bill does also refer to the CEO making a finding as to whether the constitution of an Animal Ethics Committee is appropriate. Our view is that the code should be complied with and secondly, that there is some scope to include further provisions regarding specifically how an Animal Ethics Committee should be comprised.

The bill does not appear to make much reference of the ethical requirements of the scientific use code for animals in research. It predominantly seems concerned with the competency of individuals and our view is that there is some scope to include further reference to the ethical underpinnings of the code which are pivotal to its operation.

While we support the intention section 42(3) of the bill which requires the CEO in considering an application for the registration of a person to use an animal for scientific purposes to consider whether that applicant has been involved in a disqualifying event, our strong view is that such persons who have been involved in such disqualifying events are not appropriate persons to be engaging in scientific research on animals so we suggest that the bill should permit these persons not to be registered at least for a period of years.

We are also quite concerned about the abolition of the Animal Welfare Authority in this bill. Our view is that in order to prevent conflicts of interest, animal welfare law should be enforced by an independent authority.

Animals Australia commends the inclusion of broadening enforcement powers in some contexts however there could be more provision made for the routine monitoring of premises in which animals are kept for commercial purposes. With respect to penalties, we believe there is still scope to increase maximum penalties in the bill. Penalties are so important as they act as a deterrent and this bill provides an excellent opportunity for penalties to really reflect the community view that animal cruelty is intolerable and not welcome in civilised society.

Finally, with respect to the enforceability of codes of practice, we support the intention behind section 20 of the bill which makes it possible for regulations to prescribe codes of practice with the possibility that they will therefore be made enforceable. Our recommendation is simply that following the passage of this bill, the regulations be promptly amended to adopt all relevant animal welfare codes of practice and the new standards and guidelines. Thank you.

Madam CHAIR: Thank you very much, Ms Russell. I will now open it up to the committee for any questions.

Mr PAECH: Thank you, Madam Chair. Katherine, it is Chansey Paech, the Member for Namatjira here. I am just wondering if you can further elaborate on the area you talk about suffering and what Animals Australia would deem as its definition of suffering. I have to say, I am a little confused around your position on the mental health of the beast or the animal.

Ms RUSSELL: Our view is simply that normally animal welfare legislation will define what it means when it uses terms like 'suffering', 'pain' or 'harm'. Our view is that animals suffer in numerous and complex ways, not only physically but also mentally. They experience fear, isolation and loneliness. Our view is that when we are looking at animal welfare and how the law needs to protect animals, we need to look at animal welfare in a broad sense, encompassing the various ways in which animals can suffer.

So, our view is that the law should be amended to include a definition that makes it clear that we are not just looking at physical injury or pain, we are also looking at mental distress.

Other jurisdictions do this quite well. For example, in South Australia, the *Animal Welfare Act* says that harm is used to refer to any form of damage, pain, suffering or distress, whether arising from injury, disease or any other condition. It is quite a broad definition. Western Australia says harm includes injury, pain and distress evidenced by severe abnormal physiological or behaviour or reactions. In Queensland, the *Animal Care and Protection Act* says the term means distress and mental or physical suffering.

Our view is simply that the term should be defined to include both physical and mental suffering.

Mr PAECH: Thank you. I am following on from that, because I am an avid horse rider and eventer. I am curious because going to look at the mental health aspects of that industry, there is varying definition of what could be deemed as not appropriate or applicable. I am concerned about how you would set that interpretation of what is deemed acceptable and not acceptable.

Ms RUSSELL: Well, that would be something the court would probably determine. It is really in the context of someone facing a cruelty complaint in the court. They would bring expert evidence to court. It would usually be presented by a vet if it went to trial. The vet would try to explain to the court what the animal suffering was. If the court was of the view that that was undue mental suffering or distress, it would not really matter what the context was; it should be prohibited by any legislation that purports to protect animals from cruelty and ensure their humane treatment.

Mr PAECH: Sure. I want to follow on. In 2.1, you are suggesting that the definition of an animal is too limited ...

Ms RUSSELL: Yes.

Mr PAECH: I want to get the position from Animals Australia. You are talking about basically from conception?

Ms RUSSELL: No. We are talking about animals that have passed the mid-point of gestation. That is something we are seeing within other jurisdictions.

Mr PAECH: Okay.

Ms RUSSELL: Both Victoria and Queensland have a provision to that effect. It is not from the moment of conception, it is from roughly the mid-point of gestation or incubation, which is when scientific literature is suggesting animals may become sentient.

Mrs FINOCCHIARO: Katherine, in regard to the definition of suffering including both physical and mental—you might not know the answer—are there any exclusions in the other jurisdictions' legislation? For example, if certain industries are carved out, or certain practices—I am thinking of calves being taken off mothers that could be upsetting and distressing for mothers, but it is an important process of the cattle and other industries. Are there those types of considerations carved out in other jurisdictions?

Ms RUSSELL: Yes. What tends to happen in other jurisdictions is there is—and I believe there is a similar provision in this bill—a section of the bill that will say that anyone who is operating in compliance with a code of practice is exempt from the provisions of the bill, or has a defence to a charge of cruelty. So, people who are operating in accordance with a code of practice generally cannot then be charged with cruelty because they have abided by a code of practice or standards and guidelines. Typically, most of those practices of the type you are referring to where animals may suffer from some sort of distress or physical pain are covered by codes of practice. Generally, what will happen is in those situations, those types of practices are exempted.

Mrs FINOCCHIARO: Thank you.

Ms NELSON: You mentioned the *WA Animal Welfare Act*. I am going to ask the same question about animal welfare. You raised the mental wellbeing of animals. Did you point out where in the *WA Animal Welfare Act* that is addressed?

Ms RUSSELL: I believe it is section 5 where they defined the term ‘harm’ and they include the term ‘distressed’, evidenced by severe abnormal, physiological or behavioural reactions.

Ms NELSON: It comes out as a physical behavioural reaction?

Ms RUSSELL: I think what they are talking about is where an animal’s distress may be evidenced by something that their physical self is doing. For example often animals that are extremely distressed might have certain behaviours like pacing, banging their heads on a wall or leaning against things. Their physical body can demonstrate that they are suffering fear, isolation or loneliness.

I think what that section of the Act is trying to do is put a limit on what might constitute distress so that distress must be something that is physical that you can interpret through looking at the animal’s behaviour, the way that they are operating in their environment. Generally that will be something that is not the animal’s normal behaviour. Something that the animal will do where they are visibly displaying some form of distress or fear.

Ms NELSON: I have read briefly the *WA Animal Welfare Act*, in the course of my own research in preparation for this inquiry. I am happy with the way they have defined it. I was curious that your suggestion was that this bill provide a very clear definition and include the term ‘mental health wellbeing’. Is that right?

Ms RUSSELL: Anything to the effect that will tell the court the terms suffering, harm or pain were referring broadly to an animals’ entire welfare including their mental wellbeing. It could be reflected by the words stress, fear or various ways of doing it. The main point that we were trying to make was that we did not want to see it being restricted purely instances of physical pain or injury.

Mrs FINOCCHIARO: Could I take you back to your submission 2.4 under proof of intention, noting that in the submission that we would be the only jurisdiction that require intent as part of the bill.

Ms RUSSELL: Yes.

Mrs FINOCCHIARO: Could you talk more broadly to that point?

Ms RUSSELL: Sure. Basically what happens in other jurisdictions is that most offences that are the types of offences that are covered in this bill are under the minimum level of care sections—failing to provide food and water, failing to provide adequate living conditions, those types of provisions.

Nowhere else in Australia, if you are trying to prosecute under those provisions, do they have to show that the person who failed to provide food, for example, intended to fail to provide food. All you would have to show in other jurisdictions is that they failed to provide food.

Our concern here is that if you add this requirement of intention it makes it a lot more difficult to show to the court that the person should be found guilty. With respect to other types of offences, like cruelty offences, no other jurisdiction has a requirement that you show specifically that a person intended to be cruel to an animal. They just have a straight section that says, ‘If you are cruel to an animal you are guilty of an offence’. There is no mental element in the offence or, like in South Australia, a person is guilty of a cruelty offence where they have intentionally, recklessly or unreasonably caused an animal to be ill-treated. So it is making it much broader.

You do not have to show specifically that the person intended to be cruel; it would be enough to show that they were careless or reckless as to whether they were cruel or they just acted so unreasonably that any

other person would look at that conduct and say, 'That is unreasonable. That is cruel.' This is the type of conduct that should be prohibited by animal welfare laws.

Mrs FINOCCHIARO: So is it a concern then that whilst our enforcement and other provisions have been somewhat strengthened in this bill, if we keep that intention element it is less likely that many prosecutions will happen?

Ms RUSSELL: Yes I think it certainly makes it extremely difficult to prosecute cruelty. It also fails, in my opinion, to capture instances where the community would believe that people are morally culpable for cruelty and I am trying to think of an example.

Say for example, a person has a dog in their backyard that is suffering horrendously; any reasonable person would be aware of it and would take some sort of action. Under the provisions where it requires intent, to prove intent you would not only have to show that the person actually knew about the condition of their dog but they intended for that dog's condition to be in that way, they intended for their behaviour to continue to affect the dog in a certain way.

Whereas what we would see in other jurisdictions is the court can come in and say let us look at this from a perspective of what a reasonable person should know, what they should do and look at how the dog is. Any other person in this situation would have known or should have known that the dog was suffering and should have taken some sort of action. The court can come in and say it does not matter if you did not intend for it happen, the situation is such that any reasonable person should have done something and therefore you can be found guilty of animal cruelty even if the court cannot establish that you actually specifically intended for the cruelty to take place.

Madam CHAIR: Are there any further questions from the committee? Thank you very much for your evidence today, Ms Russell, and for appearing before the committee. Is there any closing statement that you would like to leave with us?

Ms RUSSELL: No, I think that is all thank you. Overall we do support the intention behind many of the provisions of the bill and we hope that our submissions are of some assistance to you.

Madam CHAIR: Thank you for your time today. The committee will now break until 10.45 where we will resume the public hearing with the Animal Law Institute.

**The Animal Law Institute
Dr Malcolm Caulfield, Principal Solicitor**

Madam CHAIR: Hi, Dr Caulfield. My name is Ngaree Ah Kit. I am the chairperson of the Social Policy Scrutiny Committee.

Dr CAULFIELD: Hello there.

Madam CHAIR: On behalf of the committee, I welcome you and everyone to this public hearing into the Animal Protection Bill. I welcome to the table to give evidence to the committee by teleconference, Dr Malcolm Caulfield, Principal Solicitor for the Animal Law Institute. Thank you of appearing before the committee. We appreciate you taking the time to speak to the committee and look forward to hearing from you today.

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I will ask you to state your name for the record and the capacity in which you appear. I will then ask you to make a brief opening statement before proceeding to the committee's questions. Could you please state your name and the capacity in which you are appearing?

Dr CAULFIELD: I am Malcolm Caulfield. I am Principal Solicitor of the Animal Law Institute.

Madam CHAIR: Thank you very much, Dr Caulfield. Would you like to make an opening statement?

Dr CAULFIELD: All I would like to say is thank you very much to the committee for this invitation. I look forward to helping the committee in any way I can.

Madam CHAIR: Thank you very much. I will now open it up to the committee for any questions in regard to your submission.

Dr CAULFIELD: Sorry, say that again.

Madam CHAIR: Dr Caulfield, I will open it to the committee and see if there are any questions from the members for you.

Dr CAULFIELD: Thank you.

Madam CHAIR: Dr Caulfield, it is the Member for Karama. I will kick off with a question. In regard to your submission. You mentioned section 42(4) be amended to clarify that where a person has been found guilty of an animal welfare offence or has been issued a penalty notice for an offence in another jurisdiction, that they should be disqualified from being a fit and proper person under the Act. I was wondering if you would support a national register of people who are disqualified as being fit and proper under the Act. It is something we spoke about this morning with another person.

Dr CAULFIELD: Yes, that sounds entirely proper. As I understand it, we are talking about scientific research here, aren't we?

Madam CHAIR: Yes.

Dr CAULFIELD: Of course, the implication there is that anyone who commits any offence under a cognate Act would be debarred as a fit and proper person in respect of scientific research. That would be appropriate.

Madam CHAIR: Excellent. I guess what we were also talking about this morning was in regard to any person who commits an offence where they have not looked after or protected the welfare of an animal, and we were talking about offences where—or perhaps somebody being banned from taking ownership of a pet because of their prior history of mistreating animals as well. We were talking about a register where people could double-check and vet that the right people were taking ownership of animals. I guess it is a bit outside of the scope of the scientific research of animals as well.

Dr CAULFIELD: I think that is entirely appropriate because in the—I should say I have spent several decades as a scientific researcher myself using animals and I think looking back on that experience, as well as my legal experience, it would be appropriate to go the way that you are talking about, which is that if you have committed an offence in respect of an Animal Welfare Act in any other jurisdiction—I do not see any problem with saying that should de-bar you with working with animals in the scientific sense.

Mrs FINOCCHIARO: Doctor, I was just wondering when you spoke in your submission about the definition of animal being unnecessarily narrow and you mentioned fish. I am wondering if that would be envisaged to include people who were fishing, just ordinarily fishing.

Dr CAULFIELD: Yes, I appreciate that is a sensitive issue. A lot of people do fish for recreational purposes. What I would like to say to the committee is that yes, the definition should be expanded because a fish is, in modern scientific terms, an animal that should be regarded in the same terms as any other sentient animal, such as a cow or a sheep, a dog, a monkey.

However, that would not de-bar Parliament from making regulations or codes to govern the practice of recreational fishing. I am not suggesting that it should mean that every fisherperson is at risk of transgressing the Act every time. I think what it does is opens up the possibility, particularly in regard to educating people who fish recreationally, to that very point that a fish is regarded by science and by many other jurisdictions as being a sentient animal and therefore when they fish recreationally they should use best practice. I would suggest to the committee and to Parliament that what we should be talking about here is setting out best practices.

Mrs FINOCCHIARO: I think it was recommendation five—obviously the Animal Law Institute is amongst others who have made submissions to us—commented on the fact that our offences require intent. Is it the submission of ALI that it should include recklessness as well?

Dr CAULFIELD: Yes. There are other precedents there, especially for example in Commonwealth law, where almost every offence where there is a wilful element, so to speak, there is a lesser offence of recklessness so that one has the higher offence of deliberate intention, which obviously should be there, but there is also consideration given to recklessness.

This is really just a comment in respect of what goes on in other jurisdictions which I think is a good thing, that there should always be a lesser intent of recklessness. It just says to the public, look, where animal welfare is concerned there is not only the cruelty which a person intends but there is also the cruelty where somebody is just being wilfully blind or even just sloppy, so to speak. So that was the reason for putting that in there.

Madam CHAIR: Dr Caulfield, in regards to your submission, under recommendation 3 you have listed section 84 as amended should be amended to clarify the consequence of an authorised officer not producing an identity card. I am just wondering if you can talk a bit more about that please.

Dr CAULFIELD: Oh, honestly, I do not think this is such a big issue. You will have to forgive me. It is not one that is at the forefront of my mind because I did not regard it as such an enormous issue. It is more of a machinery question. I will have to refresh my memory on this.

Madam CHAIR: Not a problem.

Dr CAULFIELD: Just remind me which recommendation is it, please?

Madam CHAIR: Recommendation 3.

Dr CAULFIELD: Three. I cannot help you there because I cannot pick up the bit that my colleagues have written.

Madam CHAIR: That is fine.

Dr CAULFIELD: To be blunt with you, I will have to be utterly honest and say it is one of those things where it did not seem such an important one at the time it was drafted. My mind is a bit blank on that. I hope the committee will forgive me for being so useless.

Madam CHAIR: Not a problem. Thank you very much. I will move on to recommendation 2. It says:

Division 3, Part 5 of the Bill should be amended to:

And it has three components. The first one is:

Remove the proposed 48 hour notice period in section 83(3) and replace with the power to enter any premises, including inside building, at any reasonable time, or in the case of an emergency at any time.

Do you feel that this is ...

Dr CAULFIELD: I am very grateful to the committee for raising this, because this is actually—I am relieved to say—was one of the ones I was very concerned about. Suffice to say that the generality is, in my view, that unless an authorised officer has the power, in essence, to conduct random inspections where there are issues, the enforcement power becomes almost nugatory and neutralised.

I suggest that were the committee concerned, for example, about invasion of domestic residential premises, that my and our major concern is where animals are used for commercial purposes. We would understand entirely that where we are talking about animals in a residential situation that there is an argument—unless, of course, there is evidence or good reason for an authorised officer to suspect the law has been broken—that it is not a good thing to have authorised officers, in essence, entering a domestic premises without seeking consent from either the resident or a court.

However, our view is that where animals are gathered together for commercial purposes—for example, on a farm – that the law should give authorised officers broader powers to intervene where required. As you would suspect, we are concerned primarily with intensive farming where animals are away from the public gaze. My and our view is that an authorised officer should be able to enter premises where animals are kept away from the public gaze in order to ensure that the provisions of the Act are being complied with.

The committee, I am sure, will be aware that in several other jurisdictions—particularly New South Wales and where I live in Tasmania—these provisions are there. The Western Australian Parliament has a Bill in front of it at the moment which is seeking to induce a similar random inspection power—if I can call it that. I understand that it has met with severe opposition. Any enterprise worth its salt that is keeping animals away from the public gaze would be prepared to accept that it is entirely reasonable that regulatory authorities should be able to look at those animals at any time.

It goes without saying that if you do not have a random inspection power—in other words if you have to give warning to someone that you are to inspect, they have plenty of time to put things in order and hide any breaches. Not only that, it hinders the ability of the regulator to intervene swiftly to prevent cruelty continuing to occur.

I should say that in many other areas, particularly for example, in the case of things like slaughterhouses where they are producing animals for export, it has long been the case that government regulatory authorities are there on the floor, so to speak, and indeed there has long been provisions for authorised people to be there observing what goes on for obvious reasons. I do not wish to go on for fear of irritating the committee with an overstatement but I am sure you get the point. I am happy to address any further questions on that point.

Mrs FINOCCHIARO: I would like to ask about recommendation 4, that the code of practice inappropriately delegates legislative power to the executive.

I asked this question to a different organisation earlier and I was curious if you did not have certain carve outs—to put it into perspective, my question was around if mental health of an animal should be included in the broadness of the definition. I asked would it have carve outs for accepted industry, for example, where calves are removed from mothers as part of the cattle industry process. The comment was, where there are accepted codes of practice, those types of things would fall under that, in a way be an exemption.

I noted ALI's submission

Section 21 delegates authority to determine the substance and effect of the law to the Executive. ALI considers that this is an inappropriate delegation and should be removed.

Without limiting subsection (1), it is a defence to a prosecution for an offence against this Act if the conduct constituting the offence, or an element of the offence, was in accordance with a code of practice adopted or prescribed by regulation.

Could you talk as to why you have such a strong stance on that?

Dr CAULFIELD: If I can be clear about this. There are two separate points, the first point that we think there is a grave danger where one talks about codes of practice in that one must not forget that the Parliament is the ultimate law making body and what we do not want to see happening is documents which have been generated by another party slip through into the law without adequate scrutiny by the Parliament. This is the crux of what we are saying.

There are several mechanisms which Parliament can adopt and I really do not want to be telling Parliament how to do its duty or to exercise its powers, but I am sure members will understand what I am saying when I say that really what we want to see is that everything that ends up as law is scrutinised by Parliament.

One way to do that is to ensure that rather than just adopting a code by reference in legislation for example as happens, one that springs to mind immediately, is in South Australia where codes of practice are adopted simply by being lifted in regulations. With all due respect to the South Australians, I think that is the worst way to doing things.

The best way to be doing things, I would suggest, is of course one can have a code, and today we're talking about standards and guidelines which get drawn up by some sort of central process which, I would say in parenthesis of course, members may be aware is something of an ill-defined process at the moment, and I close parenthesis at that point.

Nevertheless, there can be a code but the best way to deal with such code is for the relevant government officers and legal officers to take the mandatory provisions of that code and express them as regulations. That means of course that parliament gets to see those regulations, gets to see every word that is going to end up in law, and has the opportunity to disallow that change. That is the first point.

The second point is that I suggest there is a problem with having defences under your envisioned Act per se because the process that I have just alluded to, which is the development of standards and guidelines relating to animals which is—although it is a now very faulty and shaky process—it is still being considered by all jurisdictions in a corporate sense, that is envisioning generating standards which become mandatory. Everybody can understand that: here is the law, this is what you have to do, if you do not do it then you have breached the Act or the regulations.

Where I think things get messy is where you put defences in place because today what would be a defence, and the answer is the defence would be if you comply with a code. Of course in the old days it was codes, the old codes that were put together by the ministers meeting together or some lower level committee. You can see straight away that we have a conundrum because we have a law that says 'you must do this' and if you do not do this, you breach the law and then we have a defence that says if you do not do that you cannot use it as a defence. Why do you need the latter? Surely all you need is a clear statement of what the law is and then you do not need a defence because the law is the law.

What has happened in actuality is that more or less historically we have inherited this sort of two tier system where we have a clear statement of what the law is that everybody understands and then we have these defences which relate to compliance with this set of codes. A set of codes has been criticised quite rightly in my view by industry, those using animals and the agricultural industries in particular. These codes have been criticised as being badly written, vague, contradictory and hard to understand.

The decision from what was then the Primary Industries Ministerial Committee to get rid of these codes and replace them with standards, I think, was the right decision. Once you have done that and the various jurisdictions have responded to the standards and have incorporated them into the law, and I have already commented on the best mechanism for that, surely then there is no reason for defences. It is not even belt and braces; it is just completely confusing. Where you have a law, the law should be obeyed but I see no reason for duplicating that by saying well there is a defence. What it is saying in essence that there is a defence if you obey the law. Well how silly is that?

Madam CHAIR: Are there any further questions for Dr Caulfield from the committee? Dr Caulfield, there are no further questions from the committee. Are there any closing remarks that you would like to leave with us?

Dr CAULFIELD: I would just like to say to the committee and to the Northern Territory Parliament in general, that my view is this is a very good job as a bill and I am very heartened by the way the legislation is taking the matter seriously. I look forward to seeing the final product.

Madam CHAIR: Thank you very much for taking the time to appear before the committee this morning.

Dr CAULFIELD: My pleasure. I am just about to get into bed, thank you for your time. Best wishes to the committee and Parliament in continuing to do an excellent job.

Madam CHAIR: Excellent. Thank you, doctor.

Dr CAULFIELD: Thank you. Goodbye.

**Australian Veterinary Association
Dr Kim Smith, Territory President
Dr Alex Hesford, NT Committee Member
Mr Graham Pratt, Regional Manager – Western Region**

Madam CHAIR: Hi, Graham, it is Ngaree Ah Kit. I am the Chair of the Policy Scrutiny Committee. Can you hear me okay?

Mr PRATT: I can hear you faintly, but ...

Madam CHAIR: Okay. We might adjust the microphone. On behalf of the committee, I welcome everyone to this public hearing into the Animal Protection Bill. I welcome to the table to give evidence to the committee from the Australian Veterinary Association: Dr Kim Smith, Territory President; Dr Alex Hesford, NT committee member; and Mr Graham Pratt on the phone, the Regional Manager, Western Region.

Thank you for coming before the committee. We appreciate you taking the time to speak to the committee and look forward to hearing from you today.

This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public hearing and is being webcast through the Assembly's website. A transcript will be made for use of the committee and may be put on the committee's website. If, at any time during the hearing, you are concerned that what you will say should not be made public, you may ask that the committee go into a closed session and take your evidence in private.

I will ask each witness to state their name for the record, and the capacity in which they appear. I will then ask you to make a brief opening statement before proceeding to the committee's questions. Could you each please state your name and the capacity in which you are appearing?

Dr SMITH: My name is Dr Kim Smith. I am the current President of the Northern Territory Branch of the Australian Veterinary Association. Thank you.

Dr HESFORD: I am Dr Alexandra Hesford. I am a member of the Northern Territory Australian Veterinary Committee. I am also a representative on the Animal Welfare Advisory Committee for the AVA.

Mr PRATT: I am Mr Graham Pratt. I am the Regional Manager for the AVA in SA, NT and WA.

Madam CHAIR: Thank you very much. Would anyone like to make an opening statement?

Dr SMITH: Yes, thank you. I thank the committee for the opportunity to meet with them. As a key stakeholder in animal management and welfare, we have been involved with the development of legislation and support its progress through parliament.

The AVA represents well over 9000 veterinarians in Australia. We have had quite a positive working relationship with the Animal Welfare Committee and Branch over the past seven years, particularly with Dr Hesford's efforts and abilities in that area.

We also thank the minister for listening to our initial concerns about the status of the AWAC—Animal Welfare Advisory Committee—and are pleased to see it remain in the Act. Thank you very much for that.

Madam CHAIR: Thank you very much. I will now open it up to the committee for questions.

Ms NELSON: I have one quick question. Earlier today we heard from other stakeholders. One organisation suggested that there be an animal ethics committee established, as opposed to just an Animal Welfare Advisory Committee. I want to find out from you what you thought of that. Does that have any merit?

Dr SMITH: Graham, would you care to address that?

Mr PRATT: I can briefly. I am not familiar with what was said earlier today. Sorry, I am not entirely sure what the background was for the ...

Ms NELSON: The suggestion was that an animal ethics committee be established as an overriding ...

Dr HESFORD: I believe there is an animal ethics committee currently through CDU.

Ms NELSON: Through CDU, yes.

Dr HESFORD: Yes, on which there are vets on the committee.

Ms NELSON: Right. But in regard to this legislation where we have an Animal Welfare Advisory Committee, in place of that there would be an animal ethics committee overriding—that would take over. Was there ...

Madam CHAIR: I think they were talking about the changing of the name of the committee itself, because Chapter 4 was all about ethics.

Ms NELSON: Oh. I thought it was actually ...

Ms KNIGHT: There is a drafting error.

Ms NELSON: Sorry.

Ms KNIGHT: There is a drafting error. When it talks about the Animal Ethics Committee, it inadvertently puts Animal Welfare Committee. So that needs to be—in that part of the bill when it talks about an animal ethics committee ...

Mr PAECH: It changed.

Ms NELSON: Oh, okay. I misunderstood. I thought he was suggesting that an animal ethics committee be established.

Ms KNIGHT: No, he was suggesting that that needs to be corrected—that drafting error.

Ms NELSON: Be amended.

Dr SMITH: Most organisations that work with animals have animal ethics committees associated with them, as does CDU and most other institutions and veterinary schools et cetera. It is a fairly important part of how things are managed and done with animal welfare in those situations today.

Ms NELSON: Okay, then.

Mr PRATT: I guess the roles of the Animal Welfare Advisory Committee and animal ethics committees are quite different. Animal ethics committees tend to be focused on the approval processes for the use of animals in research and education, whereas AWAC has a broader remit.

Ms NELSON: Sorry. Thank you. I misunderstood what was presented earlier. Thank you, though.

Mrs FINOCCHIARO: Could you expand on your submission about the definition of the word ‘animals’—it was obviously much broader and inclusive. Could you comment generally on that? Then, specifically, how that would work in relation to recreational fishing. Thank you.

Dr SMITH: Animal includes many species and families of animals. It includes any live non-human vertebrate: fish amphibians, reptiles, birds and mammals, monotremes, if you like as well, domestic animals, purpose-bred animals, livestock, wildlife and also cephalopods, which are like the octopus and squids. It is an encompassing term of literally live non-human vertebrates.

Mrs FINOCCHIARO: Can you see a reason why our bill would have limited the definition?

Dr HESFORD: We believe there is no physiological difference between a fish in the wild and a fish in captivity and for that reason we are requesting that the wild fish are incorporated because under the definition of animal there is no difference. As to why it has been excluded initially or in the current bill may well be because of the implications that it is going to have regarding recreational fishing.

Mrs FINOCCHIARO: If you could speak to that.

Dr HESFORD: The difficulty of how that would be policed and enforced.

Mrs FINOCCHIARO: It would, in your view, include recreational fishing?

Dr SMITH: It certainly would include wild fish as well as captive fish.

Mrs FINOCCHIARO: Would you see there being exclusions in the bill. How would you see the allowance for recreational fishing being managed if that definition were to change?

Dr SMITH: I personally think that most fishermen realise that one needs to dispose of their catch cleanly by kissing it and putting it back in the water or destroying it so that it can be used for food. Most fishermen are not that bad, but it is important that we recognise that there is a right way and a wrong way to do things.

Mr PAECH: We have had some other people present to us today and provide some information and feedback on their recommendations. I want to ask you a question. We had the Northern Territory Cattlemen’s Association in here today talking about and raising some concerns around the implementation of sufficient standard operating procedures for non-veterinarian authorised officers to destroy animals. My electoral district is a rural one, where I have a number of pastoral stations throughout where they have to, at times, destroy

animals due to the nature of the landscapes. Is there a position that the veterinary association has in that particular area?

Dr HESFORD: Our policy would state that would have to be done humanely, primarily. That would mean a quick death which does not incur any further suffering to the animal.

We recognise that a vet cannot be present at every occasion where an animal may need to be destroyed but I believe that has been incorporated into the proposed bill or certainly under the animal welfare officer section in terms of their powers that the animal is destroyed in a humane fashion.

Dr SMITH: We know that veterinarians are not spread out across the countryside like other officers, other people who may well be properly trained.

Mr PAECH: I want to also follow on around making sure that the bill we are talking about or that the parliament is considering is reflective of remote and regional parts of the NT so that it is completely focused or urbanised. Just curious around the Australian Veterinary Association's position in terms of dogs and cats in regional/remote context. If there is a position that the association has around processes that should be introduced desexing and those kinds of measures. Do you have a particular position on that that you would advocate be considered more strongly in the bill?

Dr SMITH: We have a policy, I believe, at AVA level. Graham, can you expand on the policy in that sense, for remote areas?

Mr PRATT: Perhaps a time for a bit of clarification on the question. The desexing of dogs and cats, probably more so dogs in remote areas, that is a significant surgical procedure so it is a vet-only activity. There are vets, both from within the Northern Territory and from other states, who do travel regularly to regional areas to perform those kinds of procedures. Is that what you are referring to?

Mr PAECH: Yes.

Mr PRATT: That is certainly a practice that we would see continuing and there are certainly a large number of AVA members that do that.

Madam CHAIR: In your submission, AVA suggests that the title of the bill be amended to the *Animal Welfare Act*. We have heard from both sides through the submissions. Just wondering if you could clarify why you would like to see the title remain the same as it currently is.

Dr HESFORD: We really feel that the title of animal welfare gives an impression of a positive contribution to the welfare of an animal and enhancing that animal's wellbeing rather than just protecting it from cruelty and preventing suffering. We feel that current public perception of animal welfare in general from that point of view it would be better to retain the title of welfare.

We feel it is a backwards step to go back to protection and preventing cruelty which we feel is the bare minimum, and really we should be advocating for doing more and enhancing the wellbeing and welfare of animals. I think a title that includes welfare and actively includes welfare in the title would better reflect that aim of what we are trying to achieve with the bill.

Madam CHAIR: Any further questions? One question that I had in regards to the education of pet owners and animals owners is, does the AVA believe that the level of education for animal ownership or protection or catering for the welfare of animals is actually appropriate around the Northern Territory?

Dr HESFORD: I think there is always room for improvement. The AVA has previously run programs in schools. PEP was a program that was run a few years ago where vets would go into schools and educate children in classes about appropriate behaviour towards animals and caring for animals.

Madam CHAIR: Fantastic. Does that program still run?

Ms HESFORD: It does in certain states but not in the Northern Territory to my knowledge. I personally participated in that.

Mr SMITH: In Queensland it runs and in some other states.

Dr HESFORD: There is certainly more education that could be done regarding that.

Madam CHAIR: My committee colleagues and I were talking about when we are often out in the community and knocking on doors and we see that a lot of residents own animals and have pets—and it is just wondering about their capacity or their understanding of their legal obligations to care for and cater adequately for the wellbeing and the welfare of the pet.

Dr SMITH: Certainly as an association we encourage that. There are a lot of people under our banner that go to communities and do the community work, desexing et cetera, that are actively involved in that. Maybe it is on a bit of an ad hoc basis without a definite program to push through, but I know that it is done and a lot of people spend a lot of effort and a lot of time.

AMRRIC also are very good in working in that area. As are some of the practitioners who take on communities and community responsibilities that regularly visit those communities. They are doing an excellent job in that area as well, but as Dr Alex has said, there is always room for more improvement if you like.

Madam CHAIR: Does the committee have any further questions for the AVA?

Ms NELSON: I just have a general question Madam Chair. How do you apply all of this to camp dogs? There is not one particular owner.

Mr SMITH: No and that is a big social issue, and it is an issue that the people who go to those communities and build a trust relationship with the people within those communities are slowly breaking down the barriers and overcoming that. You cannot just walk in and destroy everything that looks like it should be destroyed. One has to work with the owners and as you say, they are group owners and that is not uncommon. I think it is dealt with very well by our members in dealing with those communities. Some of the trusted relationships have been going on for many years and it is providing an essential service in those areas. Once again, there is room for more; more work, more improvement.

Ms NELSON: I was just wondering about that because certainly—my experience has been through Ngukurr, there is one dog there, her name is Chocolate and she is owned by everybody; we all feed her, we all look after her so just putting that into context. Into this bill that we are putting up and other legislation and other welfare clauses and stuff—how would we monitor that, how would we apply that to dogs like Chocolate?

Dr HESFORD: Community education. It comes back to educating the whole community.

Ms NELSON: How would you enforce that? Who would be held accountable if something was to happen to her?

Dr SMITH: That is a question that needs to be addressed somehow. I know the sort of dog that you talk about, the school teacher owns it, someone else owns it, the local policeman owns it. It is very different and unless you are up here, you do not understand those things that we deal with, the more remote areas have to deal with.

Ms NELSON: I guess that goes back to what you were saying, Member for Araluen—how is this going to fit into remote and regional communities. Interesting, thank you.

Madam CHAIR: So you mentioned that AVA has an Australia-wide membership of over 9000 vets. How many of those are in the Northern Territory?

Dr SMITH: I do not have the numbers. Graham, have you got your numbers?

Mr PRATT: Off the top of my head, there is approximately 150 vets that are registered primarily in the Northern Territory. As I understand it, just over half of those would be members. We tend to have a high membership amongst practice owners so majority of clinics would have memberships with the AVA. In addition to that 150 vets that are primarily registered in the Northern Territory, there are another 150 vets that are what is termed as secondary registrants, so they reside outside of the Northern Territory and they come into the Territory to do work, whether it is locuming or working in remote communities. Dr Smith is the only resident specialist in the Northern Territory; there are other specialists from other states that come in and do work with our clinics in the NT.

Dr SMITH: To put it into perspective though, there are 20 practices in the Northern Territory so it is not a lot. Fifteen of those are in Darwin or thereabouts. It is relative to our population base of around 250 000 in one sixth of Australia's land mass so it is a different dynamic altogether.

Madam CHAIR: Is there much interest in people taking up the veterinary field in this day in age in the Northern Territory?

Dr SMITH: Yes. I think there is. There is a lot of younger ones coming back that have been here, have gone down to Adelaide, Perth, wherever, come back so yes we do see quite a lot. I just have one more point that I would like to bring up and that is in the objectives, it is important when we are defining animals that we define sentience. That becomes a little bit broader in that definition of animal. Sentience from the Oxford Dictionary states that it feels or is capable of feeling. That is a fairly important thing to consider when we are considering our definition of animal.

Mrs LAMBLEY: Can I ask a question on that? Can fish feel? They can?

Dr SMITH: There is evidence.

Mrs LAMBLEY: I understand. With all sincerity ...

Dr SMITH: Yes, absolutely.

Mrs LAMBLEY: As in emotion.

Dr SMITH: It has been looked at and studied and there are published papers on that.

Mrs LAMBLEY: When you say 'feel', you are talking about emotions. They have emotions?

Dr HESFORD: Pain receptors.

Mrs LAMBLEY: Pain. Okay.

Dr HESFORD: They have pain receptors.

Dr SMITH: Feeling is in those receptors. Or they will respond to a stimulus—a painful stimulus.

Mrs LAMBLEY: Okay.

Mrs FINOCCHIARO: That is also bugs and things like that?

Dr SMITH: Where do we go with that? Now we are getting down—we are stepping down ...

Mrs FINOCCHIARO: Things with shells or whatever you call them.

Mr SMITH: Yes. I have a 12-year-old son who may know more about that than I do.

Dr HESFORD: Locusts can certainly feel stimulus and react to stimuli and change their behaviour accordingly.

Dr SMITH: And bees—we know that.

Dr HESFORD: And locusts.

Dr SMITH: There is some neurological input in many species that we are still just learning about.

Mrs FINOCCHIARO: Out of interest, which ones do not feel?

Dr SMITH: We do not even know whether bacteria feel.

Mrs FINOCCHIARO: I am just curious.

Dr SMITH: Does a bacteria feel? We do not know.

Mrs FINOCCHIARO: Oh, yes.

Dr SMITH: Really, that is your single-cell organism right at the start.

Mrs FINOCCHIARO: Tiny, tiny, yes.

Dr HESFORD: I thought that was what you meant by bugs. Was it bacteria?

Mrs FINOCCHIARO: No, no. I meant creepy crawlies like cockroaches and the like.

Ms NELSON: Madam Chair, leading on from that. Earlier today we also heard from an organisation that wanted to see some more detail in the bill with regard to mental health wellbeing for animals. Is that similar to what you are raising in regard to sentient ...

Dr HESFORD: Recognition of the fact that animals can feel and are sentient. The feeling now has moved on from just providing the basic—what used to be known as the five freedoms of shelter, food, water, absence of harm and ability to exhibit their natural behaviour to enhancing their environments beyond just providing protection from that. One could argue that enhancing their environment may well contribute to their wellbeing and mental health as a consequence.

Dr SMITH: Perfect. We still have to define mental health, I guess, in so many ways in animals that are lower down the scale. Yes, very difficult. And there is a lot of ongoing research that is coming out all the time. Things will change. They are changing as we learn more and more.

Madam CHAIR: Thank you. Any further questions from the committee?

Mr PAECH: Other than what is in your submission, are there any further considerations or recommendations you would advise the committee to take into consideration?

Dr HESFORD: There are a couple of changes we previously noted regarding the animal welfare officers are now just one type of officer recognised, rather than the distinction between an inspector and an officer. We wondered, with the CO appointing the animal welfare officers, what training specifically is recommended by the CO?

Dr SMITH: We are very concerned about non-veterinarians taking up something we are trained to do. We understand that we are not there or everywhere. We know the police have a lot on their hands already and they are very useful in these situations as well. It is getting a little muddled, I guess, but in the training advice by the Chief Executive, I hope he would be taking advice from the CVO or people in our veterinary field to ensure that the training was absolutely suitable for the task at hand.

Mr PAECH: Sure. It has been a theme throughout the hearing today. I know the Northern Territory Cattlemen's Association speak from a particular industry where if you are not an authorised person and you do not know what you are out there to inspect, it can be quite difficult and confronting given the nature of what can happen. I think that has been a theme that has been voiced and concerns have been raised when we talk about the term 'officer'. What is the level of skill and training that will be provided.

Dr SMITH: My personal point of view is that there are a lot of those guys managing properties et cetera, that are suitably qualified to be dispatched if something (inaudible) cleanly and quickly, and we are not trying to stop that. The other thing I found enlightening is that an officer should engage or try to get veterinary advice where there is concern about where he is going and what he is doing. That is important.

I feel that having the input from the trained possession in the training of those people and the advice for those people is particularly important.

Madam CHAIR: Any further questions? No further questions. Are there any last thoughts you would like to leave with us?

Dr HESFORD: Thank you for the opportunity to comment.

Dr SMITH: Thank you very much.

Madam CHAIR: Thank you for your input today, Graham.

Mr PRATT: Thank you very much.

RSPCA
Mr Danny Moore, Chair
Dr Jed Goodfellow, Senior Policy Officer

Madam CHAIR: I welcome everyone to this public hearing into the Animal Protection Bill. I welcome to the table to give evidence to the committee from the RSPCA: Mr Danny Moore, the Chair; and Dr Jed Goodfellow, Senior Policy Officer. Thank you for coming before the committee. We appreciate you taking the time to speak to the committee and look forward to hearing from you today.

This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public hearing and is being webcast through the assembly's website. A transcript will be made for use of the committee and may be put on the committee's website.

If at any time during the hearing you are concerned that what you will say should not be made public, you may ask that committee go into a closed session and take your evidence in private. I will ask each witness to state their name for the record and the capacity in which they appear. I will then ask you to make a brief opening statement before proceeding to the committee's questions.

Could you each please state your name and the capacity in which you appear?

Mr MOORE: Danny Moore, Chair of RSPCA Darwin.

Dr GOODFELLOW: Jed Goodfellow, Senior Policy Officer with the RSPCA Australia.

Madam CHAIR: Would you like to make an opening statement?

Mr MOORE: Thank you, Madam Chair and committee members, for having us here today to share our views on the Animal Protection Bill.

We have already introduced ourselves but I would also like to acknowledge John White and Kerri Ann Laurence, fellow board members of RSPCA Darwin, and Shae Fisher who is our shelter manager here in Darwin and other supporters.

The RSPCA welcomes the introduction of the Animal Protection bill. It has been a long time in the making and we have participated in the process since the first discussion paper was released in 2014. We thank the department for the extensive opportunities to engage in that process and given the current Act has been in place for almost 20 years, we see this as really a once in 15 or 20 year opportunity to bring the Act up to date and one where we need to grab the opportunity as much as possible.

The bill presents a great opportunity for the NT to have a modern and contemporary animal welfare law that is effective in protecting animals from cruelty and promoting their welfare. This is a very important distinction. Modern animal welfare law is marked by its acknowledgement of contemporary scientific knowledge about animals and their welfare, educational value for the community both the public and government, and proactive approach to dealing with animal welfare concerns before they become serious cases of cruelty or neglect.

So how does the NT bill stack up? Well it makes some welcome improvements that we are very happy with, particularly the increased penalties for animal cruelty and the expanded powers of authorised officers that will go a long way to improving the administration of this Act. However we feel there are some missed opportunities in the bill as well as some features that may risk taking the Territory backwards rather than forwards. As I mentioned this is a once in 15-20 year opportunity.

The missed opportunities we see, and I will not go into great depth, was the last discussion point just then of the Australian Veterinary Association, was the recognition of animals as sentient beings. Additionally we feel the bill should include fish, crustaceans and other non-vertebrate species such as octopus and squid within the definition of animal. Again this is in recognition of what contemporary science tells us about their intelligence and capacity for suffering and this can be done in a way that has no impact on recreational or commercial fishing activities.

In terms of the bill potentially taking us backwards, we point to two main issues. We do not support the proposed abolition of the Animal Welfare Authority. The independent enforcement of animal welfare legislation is very important and we believe the authority should be strengthened rather than abolished. There is an obvious conflict when you have a department that is seeking to expand an industry but also be the regulator. Other jurisdictions are following this approach of having an independent animal welfare agency enforcing animal welfare law. For example, Victoria has foreshadowed they are going to establish a

separate public sector body known as Animal Welfare Victoria. It would be disappointing to see the Territory abandon its statutory authority model.

However, as you would have sensed from some of our comments in social media, the most concerning part are the introduction of the *mens rea* elements such as intention, recklessness and knowledge into many offences of the bill, including the basic cruelty and breach of minimum care offences. These elements will unduly complicate the enforcement and prosecution of offences under the Act and we feel this may lead to many cases failing for want of evidence.

Prosecutions will be lost and may not even be pursued. The inclusion of these elements departs from over a hundred years of legislation drafting practice with respect to animal cruelty offences. No other animal welfare law in the country, including the current Northern Territory *Animal Welfare Act*, has these provisions and we question why they are deemed necessary to be introduced in this bill. We also note that three other submissions have raised similar concerns around these provisions.

Obviously there are many other issues outlined in our written submission which we are happy to be guided by the committee on their interest in them. I will just point out that any technical matters, I am pleased to have Jed here in the Territory with us today who brings extensive operational experience and also technical expertise, having previously been an animal welfare inspector and prosecutor.

To conclude, this is a very important opportunity for the Northern Territory and the government to leave a strong legacy of animal protection in the Territory; to have an Animal Protection Act that is fit for purpose and will stand the test of time.

Mrs FINOCCHIARO: Other organisations have also raised the issue of the conflicting role of the CEO. I wanted to ask how RSPCA sees those separating out so that they would not be a conflict. How else would you structure it?

Dr GOODFELLOW: We do have a policy and most animal welfare organisations have policies that go to the objective of having independent authorities administering animal welfare law, primarily because of that perceived and the sometimes very real conflict between, as Danny referred to, the industry promotion functions of Departments of Agriculture and Primary Industries and their regulatory functions in terms of animal welfare. Sometimes animal welfare standards and industry productivity goals can come into conflict.

As Danny alluded to, some state governments are now pursuing the approach of having a separate body that is going to be administering animal welfare laws, such as Agriculture Victoria is now going to be establishing Animal Welfare Victoria that will be a separate public sector body.

In the NT it is great that on paper, we have a separate statutory body, the Animal Welfare Authority, which has the responsibility for administering the legislation. In practice, the Animal Welfare Authority is the CEO of the Department of Primary Industries so it is not, in practice, a separate body. We see that as a reason for further strengthening the independence and the resourcing of the Animal Welfare Authority as opposed to abolishing it. Because that policy of having independent oversight of the administration of the legislation is still there.

In the Territory, for instance, and we outlined in our submission, the authority here could have a CEO appointed to it that is not the CEO of the Department of Primary Industry and through administrative arrangements orders that authority could be established as a separate unit. It would still be, of course, answerable to the Minister of Primary Industries, but it would operate, or at least the statutory recognition of its independence would be played out in practice as opposed to just on paper, which is the case at the moment.

Mrs FINOCCHIARO: It could sit within another department, it would still be through government but at arm's length?

Dr GOODFELLOW: Yes. It could even still sit within the Department of Primary Industry and still be answerable to the Minister but so long as that statutory recognition of its independence is still there and protected. Delegating that responsibility to the CEO of the department creates risks that you will have conflicts from time to time that will arise between those industry promotion roles and animal welfare roles.

The very reason for strengthening the Animal Welfare Authority was outlined very clearly in the NT parliament inquiry into the Mataranka Station incident, where there was evidence given to that inquiry that there were tensions within the Department of Primary Industries relating to the industry promotion roles and the animal

welfare roles. The recommendations in that inquiry were that the Animal Welfare Authority be strengthened and better resourced. It is concerning to us that several years later we are seeing a proposal for that authority to be abolished.

Mrs FINOCCHIARO: I know other organisations and speaking with the RSPCA and obviously reading your submission there are concerns around this legislation. The way it is currently drafted really prohibiting the ability to get prosecutions, which obviously has impact on people doing the wrong thing but also that deterrent element of the bill. I think in your submission you say:

(1) A person commits an offence if:

- a) the person is in control of an animal; and*
- b) the person intentionally engages in conduct; and*
- c) the conduct results in the animal not being provided with at least the minimum level of care and the person is reckless in relation to that result.*

You included recklessness, which I thought was interesting. Could you talk us through why it is important that we remove both words?

Dr GOODFELLOW: What happens here, and as Danny said, it does depart from the history in terms of how animal neglect and cruelty offences have been drafted.

In every state and territory of the country including under the current NT *Animal Welfare Act*, the standard for the prosecution to meet in relation to a person breaching their minimum level of care for instance, to animals that are under their control, is simply that the physical elements of that offence. The Act imposes a duty on all animal owners to look after their animals in accordance with the minimal level of care. If that minimum level of care is breached, they are liable to be potentially charged depending on the circumstances.

What this bill is proposing is that this prosecution would have to establish that the person had knowledge of the animal's ailments and suffering and proceeded in any event—in acknowledgement of that suffering—to continue failing to provide that minimum level of care.

It is an extra burden for the prosecution to meet. We have reached out to the government to try to get some further understanding of why this is deemed necessary. We have heard some second hand information that it is a broader policy that goes across government and that there is a policy from legislative council, parliamentary council that mens rea elements be included in all offences in the Territory. Our concern that, if that is the case, is that taking a blanket approach to all offences is dangerous and can lead to unintended consequences. Each offence needs to be considered on a case by case basis and when it comes to animal welfare offences, they are quite unique.

Having been a prosecutor myself in South Australia under the *Animal Welfare Act* there, I can tell you even when the offences do not require proof of knowledge, recklessness or intention, those matters are still raised in the prosecutions. When I look at this bill I see it as being a defence lawyer's field day and I can guarantee there will be cases lost and circumstances where the authorised officers within the animal welfare unit will be submitting their briefs to the legal people and they will be knocked back on the basis that there is a lack of evidence to demonstrate those mental elements of the offence.

Mr MOORE: Following on from that last point, you outlined some groups that will be affected. I also think the animal welfare officers in the department will be very frustrated in their jobs because they will not be able to get the outcomes they are there to do.

Mrs FINOCCHIARO: To follow on from that, Chair, it was also talking about a person's mental capacity—an animal should be removed irrespective of whether or not someone was found fit to plea?

Dr GOODFELLOW: Yes, that is in our submission. What we are saying there is that under the bill—and this is one of the strengths of the bill, that it provides increased powers for magistrates upon the conviction of an offender, to impose certain orders upon that person in relation to whether or not they continue owning animals, whether or not animals that are currently in their care should be forfeited.

In other states and territories, that power is also enlivened in the instance where the defendant is deemed mentally incompetent to have either committed the offence or to stand trial. Therefore, the prosecuting authority can still have the ability to take custody of the animals and deal with the immediate animal welfare concerns.

If the power for magistrates to make those orders does not include circumstances where the person has been deemed mentally incompetent to have committed the offence, then there is no power for the courts to award custody of those animals to the authority, to the prosecuting agency.

Prior to that being introduced in other states that led to some really dire consequences where we had people who were neglecting large numbers of animals. They were charged with breaching their duties, found to be mentally unfit to have committed the offence and then there was no power for the court to make an order for those animals to be transferred to the welfare agency.

Mrs FINOCCHIARO: Thank you very much.

Madam CHAIR: Any further questions?

One of the questions that I thought of when I read your very comprehensive submission was about RSPCA's process in vetting potential pet owners. I spoke about it this morning with another stakeholder in regards to processes we could potentially already have in place to vet, to make sure people have the mental capacity and the ability to adequately cater for the wellbeing of an animal they are taking in as a pet.

I was wondering if you could tell us about RSPCA's vetting processes?

Mr MOORE: Yes. We operate in people adopting animals from our shelter at Berrimah and across the nation on same policies. There is a range of things put in place around a person's capacity to look after the animal, even their living arrangements. If they are in a rental, we make sure they have permission from landlords so we do not end up problems with the animal returning.

In getting into the space of their mental capacity and so forth, those are steps we cannot really get into. Judgment factor probably comes into place with the management of the shelter at that stage. If there were concerns like that, the team would probably keep in touch with that person a little more than others to make sure they know how they are going through that process and work out the best way to approach that.

Madam CHAIR: Do you think there is an adequate level of education for animal or pet owners in regard to doing their job properly as a responsible pet owner?

Mr MOORE: It is probably fairly disjointed. There are a number of different aspects where that comes in. It could be better. It can always be better. You can always do communication and education better.

You have a portion of local government that does some of that, organisations such as ourselves and the Territory government in that space as well. How that is coordinated and brought to the forefront of the community could be improved. Maybe looking at things differently as well. If we took animal management issues—barking dogs—rather than issuing a fine, is it better to take a proactive approach of encouraging that person to go to dog training? All of these things could be looked at in a different way than we currently operate them.

Mr PAECH: What is the process from the RSPCA? At what point do you make the determination that an animal will not be rehoused or rehomed?

Mr MOORE: I speak for RSPCA Darwin. We never give up on an animal unless there are extenuating circumstances such as the health of the animal—a vet has provided a recommendation that it is in the animal's best interest and welfare for potential euthanasia, or the animal has behaviour issues that mean we cannot adopt that animal. But that is not a straight up-front decision. The team will work extensively to try to get that animal into a state it is able to be adopted and go into a home. There might be a very specific criteria on who can adopt that animal.

In Darwin we are achieving some winning results in successful outcomes across the nation and internationally. The average success rate for a cat is 60% or 70%. Here in Darwin we have achieved 93% in the last year. We are being very successful in rehoming animals and making sure they leave us healthy.

Mr PAECH: Sure. The volume of animals which are surrendered to the RSPCA would predominantly be cats and dogs?

Mr MOORE: Yes, predominantly cats and dogs, but we get the occasional rooster. We had a pig recently. Across the country—we do not take horses in Darwin, but in Victoria they do, and some livestock as well. It is quite diverse in terms of what comes on board, but predominantly dogs and cats.

Mr PAECH: Sure. In the event that a horse was to be surrendered, do you know where that would go?

Mr MOORE: We do not have the facilities locally to handle a horse, but we would probably work with our friends in the animal industry and see if there is a place they can be rehomed, through the network.

Mrs FINOCCHIARO: What is RSPCA's views about the powers of inspectors to go into homes and whether that needs to be opened right up to just there being a suspicion—or not even that, just the ability to come in and check people like breeders or people who have that role of caring for animals without requiring a threshold of suspicion?

Dr GOODFELLOW: Yes, there are a number of different circumstances in which authorised officers can enter a dwelling or the land around the dwelling under the Act, and generally under animal welfare legislation around the country. They include reactively to investigate a report that has been made.

Generally, the legislation will include a precondition that the inspector or authorised officer has some kind of reasonable suspicion or belief that there is an animal that may be in need at the premises. It is really important that those officers have the power to enter the land around the dwelling to check on the welfare of animals because in my experience as an inspector in Queensland, 90% of the cases really just require the inspector to look into the backyard. If the occupier is not home and you need to, under the current legislation, either apply for a warrant just to look into the backyard, it is a huge administrative burden on the officers. It is great to see the expansion of those powers here.

We did have a couple of issues with those powers. There seems to be, and I am not sure if it was a legislative oversight, but there is a requirement in here to provide 48 hours' notice of entry even when that entry is conducted in accordance with the provision relating to urgent circumstances. I would ask that be flagged. Obviously that is quite incongruous, having to give 48 hours' notice if there is an urgent matter that needs attending to.

In terms of the monitoring programs outlined in the Act, so that is a different approach, that is a more proactive approach where it will apply to a particular industry or a particular type of animal facility, usually a facility that is using animals for commercial purposes, in most states and territories around the country they will have these monitoring programs where officers can attend at a reasonable time, generally with giving reasonable notice.

That is not in relation to a report or a potential offence, it is simply a routine inspection. I note the bill does have powers for the CEO to develop monitoring programs which is good to see but we have flagged in our submission that there does need to be a power of entry for those authorised officers who are checking compliance with the monitoring program established by the CEO. There does not appear to be an express power of entry in accordance with the CEO's monitoring program so that is all outlined in our submission in further detail at page 14.

Mrs LAMBLEY: Coming from Central Australia, my electorate office gets a lot of complaints about the treatment of animals in remote areas and in the town camps too. There is widespread neglect and mistreatment of animals in those parts of the Northern Territory. It is a huge problem and governments—local government and Territory government—all battle with this.

Over the last 25 years that I have been in the Territory I do not think that things have improved that much, or they improve for a while and it tends to fluctuate depending on who is around to step in and undertake different campaigns to sterilise and address the issues. What sort of work does the RSPCA do in this area at the moment? Is that a significant part of your work?

Mr MOORE: In terms of the Territory, obviously we are Darwin region only. There is the Alice Springs animal shelter in Alice Springs itself which is not part of the RSPCA. I know they do some educational work but it is probably more in the space of AMRRIC. They run a number of programs but, as you said, they rely on volunteers to volunteer their time to go out to these communities and assist.

I guess to your point, it is really the ambulance at the bottom of the cliff, picking up the pieces as opposed to getting up the top of the cliff and solving the problems before they start. We currently do not have the resources locally to expand into that space but we support AMRRIC in their work.

Mrs LAMBLEY: I am just wondering whether or not you think this legislation will help to address this huge amount of need in remote areas and some town camps?

Dr GOODFELLOW: It certainly helps. It provides some of those powers that are necessary to deal with perhaps the situation when it gets bad.

This issue, of course—as Danny was saying—is an issue of education and operational capacity. We liaise with those remote communities as well. I know of certain programs in Queensland, for instance, where the RSPCA there—it is a larger organisation and has more capacity—has been employing Indigenous inspectors through their *Animal Care and Protection Act* who will basically lead community education programs in those remote communities.

I reiterate what Danny was saying. AMRRIC is doing fantastic work in this area. I have met with the people at AMRRIC on a number of occasions. They just need further funding and government support. They are doing fantastic work. They have the strategy for progressing these issues. It is just a matter of capacity, really. It is education and operational approaches as opposed to law and order, which is what we are looking at in the bill.

Ms NELSON: When we get funding ...

Mrs LAMBLEY: In the neglect of animals, would you agree that the bulk of the problem probably lies outside of Darwin and Alice Springs and our centres—it is mainly a remote problem or a community problem?

Mr MOORE: We do not have data to give a judgment on that. Anecdotally, it sounds that way. It is probably a question more so for the department, which is up a bit later, which probably has those details and statistics.

Mrs LAMBLEY: I guess as part of this panel, if this legislation does not help to address the real problem and where it is, you have to question what it is all about.

Dr GOODFELLOW: Absolutely. We would support further government investment in those programs. AMRRIC in particular would be leading that way.

Mrs LAMBLEY: It is almost like an elephant in the room.

Mr MOORE: One key difference in the Territory RSPCA is we are not responsible for inspectorate, the government is. Hence, we do not have that view about where the problems are occurring. We work with them and also seek homes for the animals after they have been through the process with the inspectorate. But we do not have access to the statistics around where the issues are occurring and what issues are occurring.

Mrs LAMBLEY: Talking about myself, I have been a member of parliament for eight years. Most of the complaints about animal welfare are about animals in remote communities or town camps. I can only think of one in the town of Alice Springs during that time.

Mrs FINOCCHIARO: I have an urban electorate and we take complaints from people ...

Mrs LAMBLEY: Do you?

Mrs FINOCCHIARO: ... concerned about dogs in back yards and things like that.

Madam CHAIR: That is what happens in the Karama electorate as well.

Mrs FINOCCHIARO: I take your point.

Mrs LAMBLEY: It is different.

Mrs FINOCCHIARO: Yes, different. In definitions, on page 11 of your submission you also talk about the definition of suffering should be something more like harm which would include mental distress. A few other organisations were talking about the current definition does not include mental distress, it is only physical pain.

I asked a couple of others. If the definition was expanded to include mental distress, there would then have to be carve-outs for people like cattle producers who—I used the example of the calf being taken off the mother which could be very distressing for the mother, but obviously a necessary part of the cattle breeding process. How do you see those types of industry needs working with expanding the definition to include mental distress?

Dr GOODFELLOW: The approach taken in all animal welfare legislation around the country is you will have a broad principles, duties and prohibitions outlined in the primary Animal Welfare Act, then there will be exemptions and defences for acts that are done in accordance with an industry-based code of practice or standard and guidelines. I do not know the relevant provision, but there will be exemptions in here for all of those practices that are in accordance with an accepted industry code of practice or standard and guideline.

Obviously, we would like to see those industry standards be as consistent as possible with the broader duties and standards outlined in the state welfare legislation but inevitably, because of those commercial demands, you do have different standards. You have effectively a situation of double standards. But yes, that is provided for through the exemptions and defences.

Madam CHAIR: Thank you for answering all of our questions. Is there any closing information or a statement you would like to leave us with.

Dr GOODFELLOW: Just really briefly, and picking up on the discussion with the AVA, the recognition of animal sentience in the objects clauses of the bill would be absolutely fantastic to see. That is not going to lead to any major changes. It does not attach to operational issues or duties; it is simply a symbolic recognition of the fact that animals are sentient, feeling beings and that is the purpose for why we seek to protect them, because we acknowledge that they have the capacity to suffer.

It would be great to see the NT become the first jurisdiction in the country to do that. It will be a common feature of welfare legislation in the future and other nations are doing it; New Zealand did it in 2015. The Territory has the great opportunity to do that now and be the first one in the country.

Mr PAECH: Can I just ask one really quick question. Would the RSPCA in the Northern Territory support a register for people who have been found guilty of an offence against animal cruelty?

Dr GOODFELLOW: Yes, that is one of our policy—we would like to see some form of register to be able to, even for our own purposes in terms of adopting animals. If there is that register we could preclude adopting animals out to those people who have been convicted of animal cruelty.

Madam CHAIR: Thank you very much for appearing before the public hearing of the committee today.

**Northern Land Council
Ms Kristen Lynch, Research and Policy Officer**

Madam CHAIR: Thank you for joining us, Kristen. My name is Ngaree Ah Kit. I am the Chair of the Social Policy Scrutiny Committee. On behalf of the committee, I welcome everyone to this public hearing into the Animal Protection Bill. I welcome to the table to give evidence to the committee Ms Kristen Lynch, Research and Policy Officer, Northern Land Council.

Thank you for coming before the committee. We appreciate you taking the time to speak to the committee and look forward to hearing from you today. This is a formal proceeding of the committee and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public hearing and is being webcast through the Assembly's website. A transcript will be made for use of the committee and may be put on the committee's website.

If at any time during the hearing you are concerned that what you will say should not be made public, you may ask that the committee go into a closed session and take your evidence in private.

I will ask you to state your name for the record and the capacity in which you appear. I will then ask you to make a brief opening statement before proceeding to the committee's questions. Could you please state your name and the capacity in which you are appearing?

Ms LYNCH: Research and Policy Officer, Northern Land Council.

Madam CHAIR: Ms Lynch, would you like to make an opening statement?

Ms LYNCH: Thank you to the Chair and members of the Social Policy Scrutiny Committee for the opportunity to address in respect of the Northern Land Council's submission on the Animal Protection Bill 2018. As stated, I hold the role of Research and Policy Officer with the Northern Land Council. I would like to convey the

apologies of the NLC CEO, Mr Joe Morrison, who is unable to attend today's hearing due to previous land council commitments, which have taken him to East Arnhem this week.

The NLC is an independent statutory body established under the Aboriginal Land Rights Act. Amongst other roles, the NLC is responsible for assisting our constituents to manage their traditional lands and waters within the NLC region, which is the top half of the NT.

The NLC made its submission in respect of the bill on the 19th March and of greatest concern, as expressed in our submission, is the fact that the bill has the effect of criminalising traditional hunting activities, which are often carried out by its constituents.

The bill reflects those provisions in the current *Animal Welfare Act* which provide a penalty for harming or killing animals and states that the exercise of cultural, religious or traditional practices is no defence to prosecution, under the Act for causing harm or killing an animal.

Hunting provides an important source of food for many of the NLC's constituents, particularly those living in remote communities or outstations. Food security is a real issue for many living in the NLC's region, which is often exacerbated through the price and availability of food. Traditional hunting provides an additional source of food which can be obtained for low cost.

As mentioned in the submission, hunting is also an expression of culture and an element of spirituality for many of the NLC's constituents.

Traditional spirituality, which differs from region to region across the NLC's region, sets out rules for people as to how they should interact with the natural world including how the practice of hunting should be carried out. The NLC notes that the maximum penalties for breaching sections 24 and 25 of the bill are increased under the bill, as drafted, compared to the *Animal Welfare Act*.

The penalty for harming an animal is increased by 33%, rising to 200 units which is a fine of \$30 600 or two years' imprisonment. The maximum penalties for aggravated cruelty—killing an animal—are being increased by 150%, to 500 penalty units which equates to \$76 500 or five years' imprisonment.

If enforced against those engaging in traditional hunting practices, this has the potential to worsen the already high and disproportionate Indigenous incarceration rate, which is of great concern to the NLC.

The NLC is not aware of any prosecutions under the current *Animal Welfare Act*, which this bill is intended to supersede. However the fact that no prosecutions have taken place against traditional hunters under the existing legislation cannot be relied on as an indicator of the future enforcement of the law.

As our submission states, the bill as drafted is inconsistent with existing legislation including the *Native Title Act*, the *Land Rights Act*, the *Territory Parks and Wildlife Conservation Act* and the *Fisheries Act*. This legislation recognises the rights of Aboriginal people to exercise their traditional hunting rights yet under the bill these practices are effectively criminalised.

The NLC urges the committee to consider making a recommendation that this inconsistency be addressed in order to provide clarity and avoid confusion in future should the legislation be enforced in respect of an instance of traditional hunting.

We have in front of an opportunity to recognise the relationship of traditional owners and their environment and specifically hunting practices which operate within a spiritual framework and have spiritual and physical benefits to the Aboriginal people of the Northern Territory.

Our submission described the equivalent legislation in Queensland which is the *Animal Care and Protection Act*. This legislation was amended in 2012 to allow for traditional hunting practices to take place provided that they were carried out in a way which causes least possible pain to the animal.

Just by way of summary, the NLC urges the committee to make a recommendation that the bill be amended by providing a defence to any offences under sections 24 and 25 by way of amending section 110 by adding a defence which states that, it is a defence to prosecution for an offence against this Act if the conduct constituting the offence or an element of the offence, was permitted under traditional Aboriginal law and custom. Also amended to include a general clause which states that nothing in this Act affects the right of Aboriginal people pursuant to the *Territory Parks and Wildlife Conservation Act* and the *Fisheries Act*.

I thank you for the opportunity to appear before the committee and I would be happy to discuss the NLC's submission further.

Madam CHAIR: I will now open it up to the committee for questions.

Mr PAECH: I did have some questions but you have answered them through your presentation, which was very well articulated, and I am very happy the Northern Land Council have put forward this position because it does raise a number of questions around its contravention of other existing Acts. Particularly, it is section 111 of the *Native Title Act* which talks about the right to hunt.

In part of your submission you provided the Queensland legislation component around that. Is there anything in addition to that that you or the Northern Land Council would be pushing for to be considered?

Ms LYNCH: In addition to the Queensland example, we would be seeking more engagement with traditional owners. We would suggest that they be consulted either directly or through the Northern Land Council just to open up a dialogue on what the law means for them and to get input from them as well in respect of any laws which pertain to hunting methods.

Mr PAECH: I wanted to also ask, the Northern Land Council being the statutory body that looks after Native Title and Aboriginal land rights, to what element does it play around the monitoring of feral brumbies and donkeys, and you have buffaloes up here don't you.

Ms LYNCH: Yes we do. I will have to take that on notice. We have ranger groups which I believe would be responsible for that but I would take it on notice and get back to you if that is possible.

Madam CHAIR: Any further questions?

Mrs LAMBLEY: Just your comment on consultation. There is quite a lot in this bill that, I dare say most people Aboriginal and non-Aboriginal, need to get their head around. Just the change in the paradigm of animals have feeling for example, we have had a lot of conversation on this today. Do you think there is much awareness of this bill at all do you think in Aboriginal communities? Has there been any awareness or any consultation around this bill so far? There hasn't been, has there?

Mr PAECH: Member for Araluen, am I getting the sense that you are asking would a person in Yuendumu or Utopia actually know that this is being discussed?

Mrs LAMBLEY: Yes and some of the issues that it is raising.

Ms LYNCH: From conversations that I have had with some of our constituents, they have not been aware of this bill.

Mr PAECH: It would be safe to say, Ms Lynch, that a number of practices which are used in terms of the traditional hunting are very much an existence of ongoing culture where a number of the tools which are used would date back many years.

Ms LYNCH: Yes and people have used technology as well to update their hunting methods.

Madam CHAIR: So, Ms Lynch, the bill also looks at ensuring that the welfare of animals is catered to adequately. We have been talking to a number of stakeholders through the public hearing today and reading through submissions about the importance of education and making sure that people understand their legal responsibilities as a pet owner. We were talking about camp dogs who roam around a number of remote communities and that a lot of people take responsibility and help to look after them but it would be hard to pinpoint one person to take responsibility.

I guess from the NLC's perspective you would be pushing for the traditional hunting practices to be able to continue but at the same time would support animal welfare, would support that those animals in remote communities are actually looked after and having their welfare catered to adequately, those that belong in the communities as pets and the like.

Ms LYNCH: Yes. I suppose that is why we have raised the example of the *Animal Care and Protection Act*, the Queensland legislation which does seem to strike a balance between allowing for those traditional practices while also recognising that some practices can be carried out in a way that will ensure that an animal does not suffer unnecessary pain.

Mr PAECH: Would it be safe to make the assumption, Ms Lynch, that the ranger groups which are under the Northern Land Council would report back to the Northern Land Council as an organisation about the numbers of species—or if we are looking at animals which are endangered that there is a process in place that communities are aware that they are endangered? Whilst I appreciate that there is a cultural and traditional element, on one hand, to continue to have access and the right to continue our cultural obligations, the ranger groups also does a volume of work to make sure there are options for the species to continue to populate and grow on country? How do those two things mesh together with the land council?

Ms LYNCH: I would need to take that question on notice. Our Caring for Country branch would be able to provide me further information on how endangered animals are dealt with and how that is reported back to the NLC and communities.

Mr PAECH: Sure. Just following on, the Northern Land Council's position would be well received if the committee looked at endorsing a volume of work which was similar to the *Animal Care and Protection Act* of Queensland around the exemption for Aboriginal people to continue to hunt traditionally?

Ms LYNCH: Yes.

Madam CHAIR: Are there any further questions from the committee?

Mrs FINOCCHIARO: That answered my questions, thank you.

Mr PAECH: While we are talking about the issues, in your submission you raised the *Parks and Wildlife Commission Act* and the *Fisheries Act*. Whilst we are having this conversation, do you think that is a volume of work where those two areas need to be revisited also?

Ms LYNCH: I would need to look further into that legislation before I could make a comment on that.

Mr PAECH: Sure. I want to touch on that, because we note that this piece we are discussing is in contravention to the *Native Title Act* and those two. Obviously, while we were talking about it, I wanted to flag it was under consideration for the traditional law and customs.

Ms LYNCH: Yes.

Mr PAECH: I have no further questions, Madam Chair. Ms Lynch, thank you, it was very refreshing to read the NLC submission.

Ms LYNCH: Thank you.

Madam CHAIR: Any further questions from the committee? Likewise, I thank you for your appearance and your submission and your very comprehensive opening statement, which answered the majority of things I wanted to ask you. Thank you very much for that.

Ms LYNCH: Thank you very much.

Department of Primary Industry and Resources
Alister Trier, Chief Executive Officer
Ian Curnow, General Manager Fisheries and Product Integrity
Peter Zeroni, Director Policy and Legislation
Peter Phillips, Director Animal Welfare

Madam CHAIR: Good afternoon, gentlemen. On behalf of the committee, I welcome everyone to this public hearing into the Animal Protection Bill. I welcome you to the table to give evidence to the committee and thank you for coming before the committee. We appreciate you taking the time to speak to the committee and look forward to hearing from you today.

This is a formal proceeding of the committee, and the protection of parliamentary privilege and the obligation not to mislead the committee apply. This is a public hearing and is being webcast through the Assembly's website. A transcript will be made for use of the committee and may be put on the committee's website.

If at any time during the hearing you are concerned that what you will say should not be made public, you may ask that the committee go into a closed session and take your evidence in private.

I will ask each witness to state their name for the record and the capacity in which they appear. I will then ask you to make a brief opening statement before proceeding to the committee's questions.

Could each of you please state your name and the capacity in which you are appearing this afternoon?

Mr PHILLIPS: Peter Phillips, Director Animal Welfare branch, Department of Primary Industry and Resources.

Mr TRIER: Alister Trier, Chief Executive Officer, Department of Primary Industry and Resources.

Mr CURNOW: Ian Curnow, General Manager, Department of Primary Industry and Resources.

Mr ZERONI: Peter Zeroni, Director Policy and Legislation, Department of Primary Industry and Resources.

Madam CHAIR: Because we do have four of you today, I would ask that you state your name and your title before answering any of the questions. Mr Trier, would you like to make an opening statement?

Mr TRIER: Thank you, Chair, just a very short one. Thank you very much for the opportunity to appear today. This is a very important piece of legislation that is being considered and it has been considered over quite a period of time but it is very important that we get it right. I think this part of the process is an important component to ensuring that the legislation that is finalised is as it should be.

In terms of answering questions, Ian Curnow will take the majority of questions to do with strategic policy. In terms of legislative processes or content, Peter Zeroni will take questions. In terms of operational matters and the actual functioning of the legislation as it is applied, Peter Phillips will take those questions. I will be very happy to take questions at your pleasure.

Madam CHAIR: I will now open it up to the committee for questions.

Mr PAECH: I just have a few questions, one of them was particularly around—from a number of people today we have heard a desire to look at an animal register, around people who have been convicted or found to have abused animals, to prevent them doing that in the future. Are there any mechanisms in place that would stop a third party from acquiring an animal that someone has had removed from them to take it back? So in the instances of, from my electorate, if a horse was taken off someone because they were found to have breached and been cruel to that animal, and someone else takes it back and it is returned to them, is there any mechanism in place to prevent that happening?

Mr PHILLIPS: Currently there are mechanisms in place. The *Animal Welfare Act* is structured so that if a court makes an order that the owner or the person in charge of that animal is not to have any animal under his or her control, then the Animal Welfare branch monitors that person to ensure that the court order is adhered to. The new Bill if it is passed will have the same mechanisms in place.

Mrs FINOCCHIARO: I thank the department for responding to our questions. Forgive me if I ask questions you have answered. We have not had the time to go through all the answers exactly. I think question four, where it talks about the meaning of animal—we have had a lot of feedback from different organisations this morning about broadening that. If you could explain why the narrow approach has been taken.

The reason I am asking is your response mentions it could be expanded to include things like fish, but obviously there would need to be carve outs for recreational fishing and stuff like that. Why did we go with the narrow version? How will we navigate a broader version? Why or why not do a broader version, if you do not mind? Thanks, Ian.

Mr CURNOW: Ian Curnow, General Manager. The Member for Spillett is exactly right. There was that issue that was contemplated about—do we maintain the position of the old Act, which we have gone with, which is quite a narrow definition of animal ...

Mrs FINOCCHIARO: Oh, so that is taken from the old Act?

Mr CURNOW: Yes. It is a continuation of what has been in place. What is important there, certainly in the context of fisheries—because I also wear the hat of Director of Fisheries—is as part of those deliberations we were quite clear we have had no incidents I am aware of over the last 20 years where we have had any

reports through Animal Welfare about instances involving fishing anyway. There was the element of 'if it is not broken, do not try to think a new solution'.

Obviously, we have seen some of the comments in the submissions that have come through now. The other point that is worth noting, though, is that since we got those in I have spoken to the peak fishing stakeholder groups as well. They said they did not see the need to put in a submission and did not bother because of the approach that has been taken. They have not had their chance for input.

The critical elements there, as has been pointed out in some of the submissions, is some of the other states have a broader definition of 'animal' that includes fish, but then goes through and excludes anything that is done lawfully under the *Fisheries Act* anyway, which takes out most of the elements in a practical application.

The real issue is the approach is consistent with what exists under the existing legislation. We have had no issues raised—certainly in the last 10 years while I have been in the Northern Territory—that has indicated that there have been any deficiencies in that existing legislation.

Mrs FINOCCHIARO: Does the *Fisheries Act*—I notice about the shark finning comments—cover the welfare of fish?

Mr CURNOW: Not so much the welfare, but in the cases of something that is clearly abhorrent, like shark finning, that is something that is prohibited nationally. Every single state in Australia, under their fisheries legislation, actually has rules in place to stop that from occurring. I guess the difference is the intent is the same, but the offence is enacted as an offence to the *Fisheries Act* in practice. It is not actually done as a cruelty offence under animal welfare legislation, but it is covered as an illegal activity.

Mrs FINOCCHIARO: Okay.

Mr PAECH: We have had the Northern Land Council present to us this morning. It raised its concerns about how this will indirectly be seen to discriminate against Aboriginal people from continuing their cultural traditions of hunting. I note that we have received some responses back. However, it states that further advice will need to be received back from the Solicitor-General in relation to the impacts of traditional hunting and fishing practices.

Was the NLC not consulted during the inception of the Bill?

Mr CURNOW: Yes, they were. The NLC was consulted through this process. I am not sure whether they had not got down to that level of focus at the time until the issues arose. It is in our written response—and apologies for that coming in a bit late—that we have been clear. We were speaking to Kristen from the NLC out the front on this.

The intent will be the same as the previous answer. The new Bill is no different to what is in place in the current legislation. There have been no instances where the department has pursued anyone who has been involved in traditional hunting for any offences under the *Animal Welfare Act*.

It is certainly our intent that traditional practices should be allowed to continue in the Northern Territory and something that might aid the committee's understanding of the issue, and a good analogy is under the *Fisheries Act*. While the NLC rightly points out that traditional customary practice is exempt, in working out what that exemption means, the practice is that, if there is a perceived incident about whether someone is or is not customarily fishing, we go out and talk to the traditional owners of that country to work out if the alleged charge against the individual—do they actually think the person is a traditional owner and is doing the right thing according to customary practice?

Quite often we will get them to come to court and support someone who has claimed an exemption from customary fishing is not in fact customary fishing at all, and the traditional owners will come along to court and put in a statement to say that person is not from that country and what they were doing does not have our permission.

It is certainly the department's position that we do not want to have any adverse impacts on the intent of traditional hunting or fishing but, at the same time, we want to make sure the legislation does provide coverage if there is a very clear and blatant incident where an individual chooses to harm an animal that is not within that intent, then they cannot use it as a blanket defence.

I think it is about finding that balance. Our commitment in our response is that we can go back and talk to the drafters and talk to the NLC about, do we think any tweaks are done or they happy with the actual operational guidelines about how these matters are dealt with—by consulting with traditional owners who actually deal with that.

Mr PAECH: The NLC, Northern Land Council for the record, provided an extract of the *Animal Care and Protection Act 2001* from Queensland. I am happy to provide you with a copy of that now, should you wish to have a look. I am curious that adopting measures like this would not only cover the department's concerns but also cover the concerns of and the aspirations of Aboriginal people under the NLC's membership. It does talk about the process involved in killing of an animal and the exercise under the customs and cultures of Aboriginal people. Is that something that had been considered?

Mr CURNOW: Not today on the basis that we were going with what applied under the previous Act, but certainly that is our commitment in our answer, that we are happy to re-explore that with the drafters if that is required.

My only concern, and I have not had the chance to go through the Queensland example in detail, is making sure that we do not be too specific in the head powers of the Act that might inadvertently constrain us in something else. It may well be about making sure that we have the right head powers clear and some of that detail might sit in a regulation or guideline that sits further down the legislation tree. If we have not got it right, we do have the ability to amend it at a later date. Obviously getting back a new Bill and making amendments down the track does get a bit tricky.

Mr PAECH: Madam Chair, may I ask one more question?

Madam CHAIR: Yes

Mr PAECH: We had the Northern Territory Cattlemen's Association present here this morning, a membership that I know very well. Some of the questions were around non-veterinary officers. I am interested to learn, would all pastoral lease holders be deemed as a non-veterinary officer or is that extreme area of confinement need to be developed?

There were some concerns from the NT Cattlemen's Association that when it came to inspectors, how well equipped they were with the knowledge of the industry. That they did not find something confronting that was standard practice in that industry, because they had not been well equipped or did not have an understanding of how the industry works?

Mr TRIER: I might start with an introductory comment then hand over to Peter.

I think one of the current strengths of the current arrangement of having animal welfare sitting in the Department of Primary Industry and Resources is the relationship between our livestock bio-security people and animal welfare inspectors.

There is a number of synergies and one is an ability to create great understanding about the realities of the industry. The other strength is the ability to make some judgments about when an issue does come to light to the level of issue and how that is handled and the right level of process applied. There are strengths and weaknesses in any arrangement but I think that is one of the strengths.

Your first question about pastorals being able to undertake euthanasia—there are processes that need to be met to undertake that and Peter will be better able to describe those.

Mr PHILLIPS: Thank you Alister that was a good response and a good introduction to the two questions. The first part is that pastoral owners and managers are always in a situation where, being in remote areas they need to undertake euthanasia practices, but they do that with advice from the appropriate expertise—vets, their owner's background and experience.

In regards to animal welfare inspectors undertaking the responsibility to euthanise an animal with an animal welfare inspector not being a qualified vet—in support of what Alistair Trier said—we are very fortunate in that we work in a department that we have a number of expertise that we can draw from—the vets that were already in the department.

In the Act, if it is to be passed, the procedure is that an animal welfare inspector shall take all reasonable action to locate the owner first. The second stage is to try and contact a vet and if that is not appropriate in

the circumstances then that inspector will undertake the euthanasia procedure. Having said that, it goes back to a matter of robust training for the inspectors and to understanding the industry and how it operates.

In answer to your question, it is a matter of having robust standard operating procedures so that each individual inspector understands the correct procedure to take and there are checks and balances in place.

Mr PAECH: I am just trying to find a basis of reality outside of this parliament. A lot of pastoralists need to be awarded the opportunity to be a non-veterinary officer because in my electorate there are hundreds of kilometres between the nearest vet and a pastoral homestead.

What does this look like in reality outside of here?

Mr PHILLIPS: In reality, the pastoralists know what they are doing. It is their job and a lot of the pastoralists in the Northern Territory have generations of experience on the land. They understand they have a duty of care. If there is an incident where there is an animal suffering—it has happened in the past—they will take appropriate action to make sure the animal is no longer suffering.

Mr ZERONI: As the pastoralist is the owner of the animal, therefore it is their right to—an animal is a possession for another term—to destroy that animal. Their only requirement is that they destroy it in a humane manner. They do not need to be authorised to undertake that activity.

As in the Bill in clause 91, there is quite a detailed step by step process for an authorised officer who is not a vet to undertake a number of checks before they make the decision to destroy an animal. This includes contacting the owner for consent, contacting a vet to get advice on the best way to do it and ultimately undertaking the action if a vet cannot attend and/or the owner does not want to consent to the animal being destroyed.

Mr PAECH: The nature of this industry is that sometimes people will agist cattle or horses on other parcels of land where there might not be the appropriate time frame to make those steps. In terms of the logistics and the legality of it, if livestock has to be terminated and they cannot obtain the consent, does that then create a liability that someone could say they did not consent to that.

Mr PHILLIPS: That is a fair call and you need to look at other legislation as well like the defence provisions section 31 under the Criminal Code justify, excuse, so they are a defence within itself. If someone, a reasonable person under similar circumstances undertakes certain action, then there are defence provisions in the other legislation. Any legality or litigation would not occur.

Mrs FINOCCHIARO: We learned a bit today about sentience of animals, lot of feelings, which is new for some of us and it was interesting. My understanding is that no other Australian jurisdiction legislates on the basis of sentience but other countries are, like New Zealand, and there is an opportunity here for the Northern Territory to lead that in expanding the definitions. I was wondering if—and that might not be a question for the department—there was any reason why that was excluded or the department's comments on sentience I suppose.

Mr CURNOW: We did give it some consideration; however, where it sits at the moment is that it is not in any legislation within Australia at this time. I think in considering whether it should be incorporated into the Northern Territory Act at the moment, our view was that we did not really think it would change either the intention or the actual application of our Act anyway. It was almost an argument, and I think it might have even been the RSPCA that used the words, it would be a symbolic statement.

To us, an Act is there to provide something that is clear and enforceable so symbolism was not a necessary step and it would not enhance the provisions of the Act and how they are applied in the field. I think the other factor is that we would be keen to see where this progresses nationally too in terms of—there is a lot of work going on nationally about how to harmonise some of these things and understanding around animal welfare and a whole range of associated legislation. So being a bit cognisant of where that stuff tracks nationally first before we move beyond the norm.

Mrs FINOCCHIARO: I wanted to ask also, because it came up a couple of times, and again you have probably answered it in your response but just around the fact that in order to prosecute, there is this requirement that someone intentionally does the wrong thing. I guess the concern is that if prosecutors have to establish intent, a lot of prosecutions are going to fall over or perhaps not even get that far. A lot of the Bill is to act as a deterrent so the strength of the measures if you do stuff up have to be strong so people do the

right thing. I just want to know why ‘intent’ was put in there or whether or not it could be removed. If it was put in there intentionally, why, and if it was not, could it be removed?

Mr ZERONI: The question is question 15 on the questions that the committee put to us and we have quite a detailed answer that was provided by a little bit of legal advice so it is not the easiest comment to read. In short, for two governments now there has been a strong directive that all Northern Territory legislation, the offence provisions conform to Part IIAA of the Criminal Code.

There is only two jurisdictions that do that, the Northern Territory and the ACT, and the Commonwealth if you call that a jurisdiction. So there is some confusion if you look at the way offences are structured under Part IIAA. The meaning is different as you would otherwise experience under normal legislation so to speak. There is a requirement that all new legislation is drafted or when legislation is amended, that is a directive of government so as an agency and Parliamentary Counsel will follow that. There are a couple of issues in relation to intention.

We had a discussion with the RSPCA earlier and we will explore some of those with them.

The short answer is, as they are written under the Part IIAA it is not intention—you have to prove elements of the offence and I will not go into great detail on it. It is the way it is structured in the Northern Territory. It is not as clear as saying we have to prove intent here, and we did not have to do that in other jurisdictions. It is the way offences are structured.

Madam CHAIR: Any other questions from the committee?

Mr PAECH: Puppy farming is something that can occur, does this Bill take into account and address those measures?

Mr PHILLIPS: This Bill does take into account puppy farming. If you look at the duty of care provisions—minimum level of care is something that would be considered. If there was a commercial puppy farm, they would have to adhere to the minimum level of care. On top of that it is the department’s intention through the Animal Welfare Advisory Committee, which meets four times each year, which has important stakeholders and representatives to introduce a code of practice for breeding dogs and cats. With the new Bill, if they do not adhere to the code of practice—if a puppy farm does not adhere to a code of practice—then that can be used to prove an offence under the Act.

Mrs FINOCCHIARO: The Animal Welfare Authority which in practice is just—you, Alister, the CEO, and I think RSPCA or Animals Australia made the submission that it could be strengthened and be independent and, therefore, address either the real or perceived conflict of you being the CEO of both animal welfare and advancing industry. Were there any thoughts around why the Animal Welfare Authority will be disbanded under this Bill or how you might deal with those perceived or real conflicts?

Mr TRIER: I will raise a couple of components and then hand over to Peter Zeroni. Under the current Act the Authority is me. Going to the CEO, in effect, does no change in the practicality of how it is applied. In terms of conflicts of interest there are a number of mechanisms that need to be thought through.

As I was alluding to before, in any administrative arrangement there is always strengths and weaknesses. The strength of the current arrangement is that we do get good synergies between—especially in our commercial animal area—the various levels of regulation and that is a good thing. With that comes a perception of conflict of interest but in our structural alignments there is a clear separation between our research and development areas and our regulatory areas—I have always been conscious of that.

Secondly, there have been areas where there are things that we have needed to look at that might be perceived as a conflict of interest. Where those things have happened I have taken the step of having an independent oversight of any investigations or processes to remove any doubt of a perception or real conflict of interest. With that, I will hand over to Peter Zeroni.

Mr ZERONI: Thank you, Alister. It is important to note that the Territory is a pretty small jurisdiction. We adopted this Act in 1999. It gives the flexibility for an organisation outside of government—for example, the RSPCA—in a large jurisdiction to be the enforcing authority. Given the Territory is a small jurisdiction, there is no obvious organisation that has the capabilities and resources to do that. The question is if it is made independent then government will probably need to provide all those resources.

As Alister mentioned, there are synergies in place between the Livestock Branch and the Animal Welfare Branch. As he also mentioned, there are firewalls in place as well to remove perceived or real conflicts of interest.

I noted the comments made by the RSPCA about it being a backward step. It is a realisation of the situation the Territory is in. The current Act says we have an Authority. The head of that Authority is Alister Trier, who is the Chief Executive of the department. In actual fact, it is the status quo, but the way the legislation was originally drafted, it was probably for a larger jurisdiction than the Northern Territory.

Mrs FINOCCHIARO: I take that point. I guess for your consideration, RSPCA said what could happen—acknowledging that it would still sit within even the department but perhaps the CEO of the authority might be a different department CEO ...

Ms NELSON: But was completely independent.

Mrs FINOCCHIARO: Yes, just splice it a little, recognising that all the services, I suppose, come from the department. Anyway, take that as a comment—yes?

Mr CURNOW: Just to add to that. I will take it as a comment but add to it. The issue around conflict of interest, though, also then sits as a decision, not so much as a fault within the Bill as proposed. It is a decision of government around its admin orders where the responsibility for animal welfare lies.

Mrs FINOCCHIARO: And they made that comment, yes.

Mr CURNOW: To me, the question is not so much that there is a fault in the Bill, it is the decision of if it was widely perceived and government agreed there was a conflict of interest in the developers of industry also being the compliance managers of industry—I sit as Director of Fisheries and have exactly the same issues, in that police report to me on all compliance management and at the same time, I am building and developing commercial and recreational fisheries.

There is obviously administrative processes around statements and decisions and all those sorts of things to be able to demonstrate that the right transparency is going into that decision making. Yes, I see it probably as an issue for the admin order and the government to resolve where the administration of that Act best sits at the appropriate point in time, rather than a flaw in the Bill itself.

Mrs FINOCCHIARO: In the Bill, yes.

Mr PHILLIPS: May I add to that comment?

Mrs FINOCCHIARO: Sure.

Mr PHILLIPS: There is always that perception of regulatory capture when a department is trying to promote the development and regulate at the same time. It boils down to how robust the Act is. The Act actually provides provisions where public servants, if they see an animal welfare breach, need to report it to the CEO. The CEO then needs to deal with it appropriately.

It also goes back to the *Public Sector Management Act* and the code of conduct as well. So, you have to take into account all that other documentation.

Mrs FINOCCHIARO: Thank you. My last question, Madam Chair, is about powers of entry and why the 48 hours was decided upon. Why was it not strengthened so that your team, Peter, could just go in and check things out at any time? Why did you land where you landed with powers of entry in this Bill?

Mr TRIER: I will hand over, but that was just as a result of consultation between the different stakeholder groups and a balance of views.

Mr ZERONI: Under the current Act, it is seven days' notice for a planned visit. This is not that we need to give seven days if there is an incident, it is a planned visit. We thought that was probably overly generous in this modern world of ours and that 48 hours would suffice. Again, that is only in relation to a planned inspection, where you give notice you are coming.

In relation to responding to complaints—and in a moment I will hand over to Peter Phillips for that—things occur much quicker and also if you have the consent of the occupier, you can gain immediate entry.

Mr PHILLIPS: There are other mechanisms under the regulatory framework that we can use, for example warrants where we can get immediate access and this new Bill also allows us to get telephone warrants as well which makes it more expeditious in regards to what sort of action we want to take.

Madam CHAIR: When we were addressed by Professor Keith Christian who is the Chair of CDU's Animal Ethics Committee, he raised a question in regard to section 35(2), exemption for penalties. Professor Christian was confused as the Ethics Committee believes that institutions and individuals must both take responsibilities. He is wondering why there is an exception for an individual. He did raise an issue where there might be volunteers or assistants helping with research projects with ethics approval and wondering whether it could be an individual who is sailing outside of the scope of the project that was originally endorsed.

Mr TRIER: I think this is addressed in our response but if you can give us a moment we will find it.

Mr ZERONI: Did you say section 32(5)?

Madam CHAIR: Section 35(2).

Mrs LAMBLEY: He said it should be broadened out to institutions.

Madam CHAIR: Yes, that both individuals and institutions should both be held to account. Why would there be an exemption for an individual.

Mr ZERONI: Is it clause 35(2)?

Madam CHAIR: I believe so. Because he was with the Ethics Committee, we were talking about section 4 of the Bill. I am happy to follow it up in writing later if we cannot find it right now.

Mr ZERONI: I can't quite put my finger on it right now. Looking at the Bill clause 35(2) does not relate to Ethics Committees.

Mr TRIER: Madam Chair, we will take that question on notice, we certainly will have a look at it.

Madam CHAIR: One of the other questions I had on my list was AMRRIC has been mentioned a number of times today in regard to the good work they do. Our government does not fund AMRRIC to be able to send volunteers out into remote communities to desex animals?

Mr PHILLIPS: The Animal Welfare Branch works with AMRRIC, particularly in relation to community education in Indigenous communities. It is another tool under our regulatory framework in the education with those communities. There is a \$200 000 animal welfare grant that is issued every year and AMRRIC put in an application for a project, along with other stakeholders, and those projects are assessed on their merits.

There is indirect funding from the Animal Welfare Branch and the department and there is also the assistance from the Animal Welfare Branch as well. We certainly understand the good work that AMRRIC does and we certainly appreciate that they are making inroads into dog health and animal health in Indigenous communities. Healthy Dog, Healthy Community is an extremely good project.

We also undertake community engagement programs and as part of our business strategy we endeavour to undertake at least 10 community engagement programs. Currently this financial year we are a little bit behind the eight ball but we will hopefully get up to those 10 community engagements, get out there and talk to the community and talk about animal health and push that community engagement at the front line there.

Mrs LAMBLEY: Section 35(2) I think it is, that last one. That is the reference the CDU representative gave.

Mrs FINOCCHIARO: We have all been wondering how it might apply in remote and regional Northern Territory, this Bill, and maybe more in practice its application is in urban centres. If it is passed into law it will apply equally everywhere but we have been wondering about that application.

Ms NELSON: That has definitely been asked a few times today: how would we apply this to remote and regional communities? How would you enforce it? Having read through the draft, it does seem to be more applicable for urban areas.

Mr PHILLIPS: I will start with giving a breakdown of the statistics of the animal welfare branch and where most of the offences are committed and the species of animals. We generally undertake 500 investigations a

year and out of those we probably have about 12 prosecutions in court. To get a prosecution in court is not what we aim for, it is only one part of the regulatory framework that we can use.

A lot of those investigations are simple investigations that can be dealt with by merely talking to the owner through them just being ignorant of what is the minimum level of care. A lot of those investigations are quite serious where it relates to extreme animal cruelty. A lot of these species of animals are basic companion animals, dogs and cats, and a small percentage are wildlife and stock animals, for example, horses etcetera.

In regard to this Bill, it will be effective throughout all the NT regardless of whether it is John Smith, Cavenagh Street or an Indigenous community at Yuendumu or Papunya, wherever the case may be.

We probably get about three or four complaints in regard to animal welfare issues in communities. A lot of those complaints are animal management. The complaints that we do receive, we act on. We respond the same as if we respond to someone in Nightcliff or Wulagi. There is no difference in the way we respond, the effort we put into it and the resources that we put into it.

The difficulty that any Act has, particularly in relation to duty of care, is to define the owner. If we are relating to an act of failing in duty of care we need to find an owner. What we find that is a situation of the way communities are, is that, there are camp dogs. They are owned by all the communities. It is difficult for inspectors to pinpoint the owner when they are owned by the community. Other offences for example cruelty, yes we can act, but it is a difficult situation in regards to that provision under the Act. For lack of a better term, it is what it is.

I can assure the committee that every time we get a complaint in relation to animal cruelty, no matter where it is in the NT, we will act on it and we will act appropriately. I must say that resources for the animal welfare branch to undertake robust investigations, has never been an issue. In that respect the NT is extremely fortunate that the resources are there for us to get out into those remote communities.

Ms NELSON: How would this work in with regional councils? The Member for Araluen and I had a conversation about the complaints I received. For example in my electoral office in regards to animal welfare versus the number that she would receive in her office. I tend to get quite a number of them. A lot is council responsibility. Are you going to be passing on some of that responsibility of enforcement?

Mr PHILLIPS: I guess we need to be mindful that if we were to pass over some of our responsibilities to local council they would need to be trained adequately because this is social legislation. It is very important legislation. The people that administer this legislation need to be appropriately trained, they need to understand the legislation inside and out, the parameters to which they work into. Legislation does not just tell you what to do it also tells you what you cannot do as well.

That is a great scenario, it would certainly take the pressure off the animal welfare branch but we need to be mindful, if that was to be a consideration, we would have to ensure that they are appropriately trained.

Going on from that—the second part of your question—there are a lot of animal management jobs that come our way because the public, unfortunately, cannot understand the difference between animal management—a dog barking or a dog escaping—and animal welfare. This is where the Animal Welfare Branch, the Litchfield Shire, the Alice Springs, Darwin and Palmerston councils work hand-in-hand. Every now and then we get together. We have a patrollers meeting where we discuss similar issues we can deal with. But there are a lot of animal management complaints that you will get. If there are animal welfare issues, yes, pass them on to the Animal Welfare Branch.

Generally, we find that we are slowly educating the councils and they are starting to distinguish and understand the difference between our responsibility and theirs. But we have to get that information out into the public domain, which is an ongoing process.

Mrs LAMBLEY: I have never differentiated. I did not even know what you did. I get quite a number of complaints of animal negligence or cruelty of whatever from out bush, and we just refer it to the shires usually—MacDonnell Shire or Central Desert Shire.

Mr PHILLIPS: What I can advise the committee if you are contacted by your constituents is to first—we do not mind if you forward them on to us and then we can determine whether they are animal management or animal welfare issues. That is what has been happening. We are still at the stage where we are passing the right person on to the right authority to deal with the appropriate situation.

Mrs LAMBLEY: A lot of people in Alice Springs, as you would realise, work out bush. They come home to Alice Springs and then they come to the local member and tell the story of what they have seen on the communities.

Did you say before that out of 500 you only get three or four from remote communities?

Mr PHILLIPS: Only three or four. A lot of them are animal management complaints.

Mrs LAMBLEY: Well, I am stunned. I get more complaints in my office than you do.

Mr PHILLIPS: I can give you my direct mobile so you can forward them on.

Mrs LAMBLEY: Good. That would be good.

Ms NELSON: That is three or four animal welfare complaints. Overall, you get about 500 total complaints?

Mr PHILLIPS: Yes, that is correct.

Mrs LAMBLEY: Remote communities?

Mr PHILLIPS: Yes, that is correct.

Ms NELSON: That makes sense, because then they break it down to management and welfare.

Mrs LAMBLEY: It does not make sense to me.

Mr PAECH: No, he is saying you get 500 whole-of-Territory?

Ms NELSON: Is that what you are saying?

Mr PHILLIPS: That is correct.

Mr PAECH: Yes, not from remote. Only three from remote.

Ms NELSON: The difference is three from remote pertaining specifically to animal welfare?

Mr PHILLIPS: Animal welfare, cruelty.

Mr PHILLIPS: Yes.

Ms NELSON: Not animal management?

Mr PHILLIPS: No, that is right. We get a lot of phone calls about animal management, which we redirect and work in with the local shires. But, yes, on average probably three, maybe four a year. I guess that people within the communities may have difficulties coming forward with those complaints.

Mr PAECH: Mr Phillips, you are an animal welfare inspector. What is the footprint of your inspectors across regional and remote parts of the Northern Territory? How often are you out on the ground looking at those potential areas of concern?

Madam CHAIR: Just advising people that we have gone over time, so this will be the last question.

Mr PHILLIPS: I will make it very quick. Our footprint covers all of the Northern Territory. We have eight inspectors and one based in Alice Springs. Police are ex-officio inspectors as well. We work hand-in-hand with police on those communities. We also work with other local government authorities within those communities. Our footprint covers most of the NT, in line with other stakeholders we use to be our eyes and ears. I hope that has answered your question.

Madam CHAIR: Thank you very much.

Mrs LAMBLEY: Thank you.

Mr TRIER: Madam Chair, I publicly thank my staff for the work that has gone to date in preparation of the Bill and then preparation for this process. Thank you.

Mrs FINOCCHIARO: Thank you.

Madam CHAIR: Thank you very much.

Mrs LAMBLEY: Thank you.

Madam CHAIR: Ladies and gentlemen, that concludes the public hearing on the Animal Protection Bill 2018. On behalf of the Social Policy Scrutiny Committee, I would like to thank all of those who provided submissions on the Bill and those who participated in today's public hearing. Thank you very much.

The committee concluded.
