

Australian Greens' Dissenting Report

Introduction

1.1 The Greens *Voice for Animals (Independent Office of Animal Welfare) Bill* would help reduce the cruelty animals are subjected to.

1.2 The Greens are deeply committed to improving animal welfare across Australia. We share every compassionate Australian's repugnance at the cruelty and deep suffering that continues to be perpetrated on animals used for food, clothing, experiments, entertainment and profit.

1.3 The sickening cruelty borne by animals whose care and wellbeing is dependent on our commitment continues unabated, only revealed by courageous independent animal welfare investigators. Last night Animals Australia yet again exposed that cruel horror and terror to which we condemn our livestock in overseas markets.

1.4 Animals continue to suffer sickening cruelty under the Government's ineffective Export Supply Chain Assurance Scheme. Cattle cower and slowly die under the blows of sledgehammers, their throats sawn agape, eyes gouged, tendons slashed. Sheep are kicked, trussed and thrown onto car roofs or into baking car boots, butchered or buried alive.

1.5 Every year we send thousands of our animals overseas where they are brutalised and terrified in a festival of slaughter. We continue to condemn thousands of animals in our care to be debilitated in their own excrement on oven-baking ships, only to suffer a brutal and horrific death at the end of their journey.

1.6 Yet time and again, successive Australian governments and Ministers have turned a blind eye to the systemic abuse in the live export market and continue to make excuses for the suffering of these animals.

1.7 The Minister for Agriculture, charged with the care of our animals farmed and slaughtered under primary production frameworks, continues to claim the live export industry as humane asserting that the government is in control of supply chain processes. This is even as Animals Australia and other investigators bear witness to the suffering, terror and torture being meted out to our animals in those overseas markets and slaughterhouses.

1.8 Under the present supply chain system not a single company or person has been penalised. Not one banned.

1.9 Across Australia the systemic abuse of animals also continues, with no one authority across jurisdictions or at a Commonwealth level to independently assess, monitor, advise and report on the protection of animal welfare in Commonwealth regulated activities, free from the influence of a Minister and industry that seeks to use animals to maximise profits.

1.10 The Greens' *Voice for Animals (Independent Office of Animal Welfare) Bill 2015* seeks to establish an Office of Animal Welfare as an independent statutory

authority with responsibility, through its CEO, to monitor, investigate and report on the protection of animal welfare in Commonwealth regulated activities.

1.11 The bill seeks to remove the Minister charged with expanding animal production industries from his or her conflicted role of ensuring animal welfare.

1.12 The Greens refer to the second reading speech on the Bill and note the Majority Report already provides details of the bill as it currently stands.

1.13 The Greens thank the committee for its work on this inquiry. We especially thank the organisations who submitted to the inquiry, and those who attended inquiry hearings as witnesses.

The majority report

1.14 The Greens note the majority report recommends the bill not be passed, noting “widespread disagreement, even among animal welfare groups, as to the structure and tone of any new animal welfare body”.

1.15 The Greens disagree with this view, noting as does the majority report that “the vast majority of submissions received were from organisations which advocate an increased focus on animal welfare” and that “the majority of these submissions expressed support for the Voice for Animals (Independent Office of Animal Welfare) Bill 2015.”

1.16 The RSPCA summarises: “A national approach is needed to promote consistency and to develop a proactive strategy that addresses animal welfare issues before they become national headlines” and that “New Zealand, the United Kingdom, Canada and the European Union all have formally established expert animal welfare advisory bodies operating at the national or supra-national level. The absence of any equivalent body in Australia represents a lost opportunity for promoting better standards of animal welfare and is putting our industries at a competitive disadvantage when it comes to trade, market access and consumer confidence”.

1.17 It is not our intent to reiterate the majority report’s summary of submitters and witnesses to the inquiry suffice to say that without exception, all NGO submitters call for a strong and independent agency to oversee the protection of animal welfare, and to ensure the protection of animal welfare as the first priority.

1.18 We note that only the Department of Agriculture argued that there is no need for the establishment of an independent office of animal welfare, stating that its own functions and mechanisms are already sufficient in this regard.

1.19 The Greens disagree.

Dissenting Report Recommendations

1.20 We agree with NGO submitters that the bill should be amended to tighten its provisions to ensure independence from Ministerial interference; and to ensure its full jurisdiction over the issues identified by the submitters.

1.21 A key challenge of the bill is to ensure that its powers remain within the legal remit of the Commonwealth. We accept Animal Liberation’s statement that the “proposed bill does not go as far as the constitution allows” and that “there is

considerable power under, for example, corporations power to legislate on animal welfare.”

1.22 The Greens also agree with the wide concerns that the protection of animals deserves measures that have greater power for enforcement and investigation. This recommendation is echoed in other submissions also. A National Animal Welfare Authority is beyond the remit of this particular bill; however the Greens are strongly committed to further exploring such a model informed by consultation and advice from our animal welfare organisations.

1.23 The Greens believe the greatest challenge to effecting animal welfare protections in Australia is the lack of commitment and will by successive governments of both major political parties to prioritise the wellbeing of animals dependent on our care and sense of responsibility. An Independent Office of Animal Welfare would remove the political conflicts of interest, and would respond to the majority of Australians’ expectations that governments should ensure the health and wellbeing of the animals.

1.24 A number of improvements to the bill were identified by all NGO submitters and witnesses. The Greens thank them for this feedback and incorporate those suggested improvements in the following (numbered) recommendations:

Support the Bill

- 1. That the bill be supported and passed with amendments that ensure the following:**

Consultation

1.25 The RSPCA noted the need for full consultation in the implementation of the bill. The Greens agree and recommend:

- 2. That in the implementation of the bill and setting up of the Independent Office for Animal Welfare, states and territories and key stakeholders including animal welfare organisations, non-industry animal scientists, independent veterinary physicians are consulted to ensure the establishment of a national approach to animal welfare policy and standards development.**

Bill Title

1.26 Sentient recommends expanding the Bill’s title to ensure the full aims of the Independent Office of Animal Welfare (IOAW) are reflected:

- 3. That the bill’s title be expanded thus: “A bill for an Act to establish a Commonwealth statutory authority with responsibility for protecting animal welfare in Commonwealth regulated activities, and for related purposes, and to assist in creating a more consistent and effective Australian animal welfare system.**

Definitions

1.27 Sentient also noted that a number of terms in the bill should be defined and included in the Bill's Definitions:

- 4. That following terms referred to in Section 9 of the bill be defined in the Bill's Definitions: Live Export Advisory Group; Australian Animal Welfare Strategy; ASEL; ESCAS; the Department.**

1.28 PETA also expressed concerns that under section 20 of the bill, the ability of the Minister to terminate the appointment of the CEO for, amongst other things "misbehaviour", risks the dismissal of a CEO who refuses to comply with unreasonable or bad faith directions by the Minister.

1.29 The Greens' suggested amendment clarifies and limits the type of directions a Minister can make to the CEO, and includes a definition of "misbehaviour".

- 5. That the term "misbehaviour" is defined in the bill to ensure refusal by a CEO to comply with unreasonable directions by the Minister does not constitute reason for termination of employment under Section 20.**

Specifying the IOAW is separate from the Department of Agriculture and its Minister.

1.30 As currently drafted the bill does not specify the Minister to whom the IOAW and its CEO reports. Whilst this was in recognition that departmental and Ministerial responsibilities shift with changing governments, all NGO submitters were unequivocal in their concern about the serious conflicts of interest between the Department of Agriculture and its Minister, and industry's disproportionate and oppositional influence in the pursuit of greater animal welfare protections.

1.31 Voiceless noted that "under the current drafting of the Bill, the IOAW still reports to and takes direction from the Minister for Agriculture."

1.32 Animals Australia reiterated those submitters who recommended "that unless the Bill is amended to remove and effectively address the conflict of interest and disproportionate industry influence that currently exists, the Bill will not achieve its intended purpose."

1.33 The Greens recognise this risk and agree that the bill should specify the Minister responsible to whom the IOAW and its CEO will report, with the Attorney General's Department the commonly recommended alternative.

- 6. That the bill be amended to specify that the IOAW and its CEO sits within the Department of the Attorney General under the responsibility of the Attorney General.**

Independent Commissioner

1.34 Concerns about the ability of the IOAW's CEO to remain independent from Ministerial political interference was expressed by all NGO submissions, with Sentient summarising the role of a CEO as a "servant of the government" and thus susceptible to the government of the day's political interference. The Greens accept Sentient's suggestion that the IOAW would be best served by an Independent

Commissioner (IC), noting that role has a natural fit with the alternative model proposed by Animal Liberation.

1.35 The Greens commit to including this consideration in future iterations of the IOAW along with consideration of investigative and enforcement powers,

Appointment of the CEO

1.36 It is noted that a conflict of interest potentially exists should the CEO engage in any paid employment outside the duties of their office. The Greens also accept that the CEO should not detract from the position itself by engaging in paid employment outside the position:

- 7. That Section 16 be amended to remove the ability for the Minister to approve the CEO engaging in paid employment outside the duties of his or her office, by removing the words “without the Minister’s approval”.**

Disclosures of interests

1.37 Section 17 of the bill should be amended to ensure the CEO does not have any actual or perceived conflicts of interest:

- 8. Amend Section 17: The CEO must not have commercial interests in any animal industry or trade regulated by the Department of Agriculture or any related animal industry.**

The Minister may give directions

1.38 There was also common concern about the ability for the Minister to give written directions to the CEO in Section 10 of the bill.

1.39 PETA noted that as worded, this leaves “potential for abuse by the Minister to undercut the core missions of the Office given the CEO is obliged to comply with no explicit avenue of administrative appeal contemplated in the Act.”

- 9. That Section 10 of the bill be amended to ensure that any directions given by the Minister to the CEO are administrative only; that they do not interfere in any way with ability of the IOAW and its CEO to fully and effectively discharge its functions and aims; and that all written directions are made publically available.**

Standards and Guidelines

1.40 Voiceless, BAWP and Animals Australia mirrored other submitter’s concerns that Animal Health Australia (AHA) continues to control the conversion process of the Model Codes of Practice to Standards and Guidelines, given that the AHA is controlled by governments and major national livestock industry organisations. Voiceless noted that “animal welfare is not included in AHA’s state objectives, mission, vision or corporate values” and that none of its 32 members are animal protection organisations.

- 10. That the bill is amended to ensure the IOAW and its CEO is responsible for the coordination, development and progression of the**

animal protection standards, including the conversion of the Model Codes of Practice.

1.41 Sentient also noted that reference to Standards and Guidelines is needed in the bill:

11. That the bill is amended to add reference to “Standards and Guidelines” where reference to “Model Codes of Practice” exist” in the bill.

Functions

1.42 Sentient notes that the term “Livestock Standards functions” is potentially confusing given it may be taken to refer to the ‘Land Transport Standards’, the ASEL, or the proposed new Animal Welfare Standards and Guidelines for sheep and cattle. Further, the term does not allude to Commonwealth legislation regulating export abattoirs and animals in quarantine. Animals Australia also noted the need for independently prepared compliance reports in the live export area.

12. That the bill be amended to replace the term “Livestock Standards” with “Regulatory functions” (s9 Functions of the CEO, *CEO’s functions*)

13. That CEO functions be amended to include reviewing and monitoring live export, live export abattoirs and animals in quarantine, and preparation of compliance reports following alleged or self-reported breaches throughout the live export chain.

1.43 The Greens also agree with Sentient’s concern that the current wording in s9 *Reporting Functions* is not broad enough and accept the suggested amendments that they make.

1.44 Voiceless recommends the amendment of the Reporting Functions and Standard-setting functions assist in remedying the identified lack of independent science and research in animal protection, and allow for independent science to be utilised in the standard-setting process.

14. That the bill clarify that the IOAW and its Advisory Committee also have responsibility for commissioning independent scientific research into specific animal protection areas that may be used in the Standard-setting process.

15. Development and progression of general animal welfare policy under the Australian Animal Welfare Strategy

1.45 Humane Research Australia reminded the Committee of the often unexamined suffering and cruelty inflicted on animals used in research, noting that “transparency and the exchange of information is essential” to limiting the use of animals in research and teaching by Refining, Reducing and Replacing animal use in research. This transparency is completely lacking in this area and the Greens strongly agree that the IOAW should include this area in its functions.

16. That the bill be amended to ensure the IOAW's functions include the area of animal research and experimentation: to develop a nationally coordinated centralised reporting system on animal use statistics; a central public database collating non-technical summaries of all research projects using live animals to avoid duplication of animal-use research, and to make available all unpublished animal-use research and their results; and to develop nationally consistent decision-making and approval processes for animal-use in research.

1.46 Lawyers for Animals raised the issue of a need for a central national repository for the collection and dissemination of prosecution summaries and outcomes from all agencies involved in prosecuting offences relating to animal cruelty or other animal offences. This will inform consideration of the effectiveness of enforcement of animal laws in Australia and to allow lawyers to prepare submissions.

17. Development of a nationally coordinated repository of all prosecution summaries and outcomes from all agencies involved in prosecuting offences relating to animal cruelty or other animal offences.

Investigation and Enforcement Functions

1.47 The Greens strongly agree with a number of submissions recommendations that the IOAW should also have monitoring and enforcement functions with respect to Commonwealth animal protection laws, particularly in relation to live animal exports.

1.48 Without the powers of investigation and enforcement, the status quo will continue with industry and Departments prevaricating and excusing the terrible systemic cruelty that continues to be exposed by under-funded independent animal welfare organisations, or by underfunded and under-resourced animal welfare organisations such as the RSPCA.

1.49 The recent move by state governments and Coalition Private Members Bills to punish those independent witnesses and whistle-blowers of brutal and neglectful treatment of animals is an end result of the habitual denigration of independent animal welfare investigators as “just activists”.

1.50 This is a complex area of law that intersects with other federal and state and territory investigative and enforcement laws, and requires and its own consideration that is beyond the resources of this Dissenting Report to address with the detail and attention it deserves.

1.51 We refer to previous consideration of an agency fully empowered to not only conduct investigations, but also undertake enforcement and prosecution activities. We recommend the following in the interim:

18. That the IOAW have authorised officers that have statutory powers to conduct investigations and inspections in relation to Commonwealth animal welfare matters, including for example, the power to inspect and investigate matters relating to live animal export.

The committee

1.52 It was commonly submitted that membership of the committee needs to be amended to ensure a balance of interests and appropriate qualifications are represented. The Greens commit to exploring this further in the future, and accept the following recommendations in this iteration of the bill.

19. That section 26 be amended:

- a) To include 1 member representing the veterinary profession**
- b) That any animal or veterinary scientist member should be independent of industry and has demonstrated expertise in animal welfare research, teaching or advocacy and holds related higher qualifications.**
- c) That all members should demonstrate current expertise in animal welfare issues and related research within their areas of expertise.**
- d) That no more than 50% of members may be affiliated with animal industries.**
- e) That the members representing non-governmental animal welfare organisations include one of each of the national NGOs that undertakes investigations and enforcement activities – currently Animals Australia and RSPCA.**

Senator Lee Rhiannon

Australian Greens