

PARLIAMENT OF VICTORIA

LEGISLATIVE COUNCIL

Economy and Infrastructure Committee



Inquiry into the impact of animal rights activism on Victorian agriculture

Parliament of Victoria
Economy and Infrastructure Committee

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About the committee

Functions

The Legislative Council Economy and Infrastructure Committee's functions are to inquire into and report on any proposal, matter or thing concerned with agriculture, commerce, infrastructure, industry, major projects, public sector finances, transport and education.

As a Standing Committee, it may inquire into, hold public hearings, consider and report on any Bills or draft Bills, annual reports, estimates of expenditure or other documents laid before the Legislative Council in accordance with an Act, provided these are relevant to its functions.

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This report is available on the Committee's website.

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Terms of reference

Inquiry into the impact of animal rights activism on Victorian agriculture

That this House requires the Economy and Infrastructure Committee to inquire into, consider and report, by Thursday, 28 November 2019, on the effectiveness of legislation and other measures to prevent and deter activities by unauthorised persons on agricultural and associated industries and in particular, the Committee should—

1. consider—
 - a. the type and prevalence of unauthorised activity on Victorian farms and related industries, and the application of existing legislation;
 - b. the workplace health and safety and biosecurity risks, and potential impacts of animal activist activity on Victorian farms, to Victoria's economy and international reputation;
 - c. animal activists' compliance with the *Livestock Disease Control Act 1994*, *Livestock Management Act 2010*, and the *Prevention of Cruelty to Animals Act 1986*;
 - d. the civil or criminal liability of individuals and organisations who promote or organise participation in unauthorised animal activism activities;
 - e. analyse the incidences and responses of other jurisdictions in Australia and internationally; and
 - f. provide recommendations on how the Victorian Government and industry could improve protections for farmers' privacy, businesses, and the integrity of our biosecurity system and animal welfare outcomes, whether through law reform or other measures.

*The reporting date for this inquiry has been changed to 1 February 2020.

Chair's foreword

Throughout 2018 and 2019, Victoria experienced a series of events where animal rights activists intimidated farmers, stole livestock and disrupted businesses. These events caused a great amount of stress to the agriculture community and rural and regional Victorians in general. That is why in May 2019 the Legislative Council acted and referred this Inquiry to the Economy and Infrastructure Committee.

This report addresses each of the Terms of Reference in a systematic way. The evidence is reflected in the 12 Findings and 15 Recommendations that appear throughout the report and which cover three key themes:

- Support for the right of farmers and everyone in the animal agriculture industry to do their job without fear
- Rejection of activists who break the law and intimidate farmers, their families and staff, and other workers in the sector
- An awareness that public confidence in the industry and its animal welfare practices protects the sector from unfair and misleading criticism.

Particularly important is Finding 4: 'For farmers and staff who reside on a farm, the whole property is their home.' This formed the foundation of the Committee's investigations. The arguments of those activists who wish to trespass, steal and abuse others in their homes were clearly examined. These arguments were then strongly and repeatedly refuted by the voices of farmers and the Committee itself.

The Committee held five public hearings across regional Victoria, to hear from farmers, transport operators and abattoir owners. We have quoted industry representatives over 90 times from these hearings as well as from the submissions the Committee received. The report is a clear statement that the Committee respects these workers and business owners, who overwhelmingly do the right thing. They have our full support in running their legal businesses.

Another important issue that the Committee acted strongly on is biosecurity. The Committee identified a weakness in current biosecurity legislation. The recommendations around biosecurity recognise how important it is to keep Victoria's agriculture economy strong. In particular, the Committee has recommended updating the *Livestock Disease Control Act 1984* to create an offence for anyone breaching a biosecurity management plan.

So far, Victoria has been lucky that there has been no reported outbreak of disease caused by animal rights activists. We cannot wait for something to happen before we act, that is why the Committee has made these recommendations.

The Committee also listened to a broad spectrum of activists throughout this Inquiry. The report explains their views to show that the Committee understands them, not to justify them. We know that not everyone who wishes to see humans switch to a meat-free diet is a threat to the animal agriculture industry. Some simply would like to see farmers stay in business by producing different food.

However, the Committee is also firm in stating that those activists who have caused harm must stop. Table 4.1 shows the strong maximum penalties contained in legislation such as the *Summary Offences Act 1966* and the *Crimes Act 1958*. These penalties are waiting for the judiciary to use should these activists not heed this warning.

Ensuring public confidence in the industry

The Committee was concerned to learn that there is a great deal of misinformation in the community regarding modern animal welfare practices and legislation. Some activists exploit this to gain public support for their illegal actions. So while it may seem that many of the recommendations focus on animal welfare, they actually provide extra protection for the animal agriculture industry by ensuring well-informed consumers maintain confidence in the sector.

Of course, industry must do most of heavy lifting to inform the public of animal welfare standards. However, governments and regulators can also help the public better understand the truth. That's why the report recommends that the regulators, in particular Agriculture Victoria, do more to inform the public about the standards farmers meet and the legislation that they abide by, such as the *Prevention of Cruelty to Animals Act 1986*.

Farmers also told us that they have strong financial reasons to take care of their animals. Improving animal welfare standards helps them get more money at local sale yards and is another marketing tool in overseas markets increasingly concerned about animal welfare. And these standards are another way farmers and others in the industry prove that they are doing the right thing.

The recommendations have therefore been designed not as a burden but with these benefits to industry in mind. For example, the Committee has recommended incorporating already existing industry standards into legislation. It is in the interests of industry to show how it is meeting community expectations about animal welfare, thereby removing the ability of activists to mislead the public.

Some may have expected the Committee to take the easy approach and listen to just one side of this issue. This would only have achieved a weak document that would be easy to dismiss. The clinical approach taken by the Committee was, at times, the more difficult approach, but it has resulted in a fair and therefore much stronger report. The evidence that follows is clear, calmly expressed and irrefutable.

I thank my fellow Committee members and our secretariat staff, Patrick O'Brien, Kieran Crowe, Caitlin Connally and Justine Donohue, for their support and hard work in helping to produce this report.

I commend this report to the Parliament.

A handwritten signature in black ink, appearing to read 'Nazih Elasmr', written over a faint horizontal line.

Nazih Elasmr MLC
Chair

Executive summary

Chapter 1

Chapter 1 introduces the Inquiry into the Impact of Animal Rights Activism on Victorian Agriculture, including the Inquiry's Terms of Reference and list of submissions, public hearings and site visits carried out by the Committee. The Chapter provides a summary of key incidents that form the background of the Inquiry:

- The online publication of the Aussie Farms Map
- Incidents at the Gippy Goat Café and Caldermeade Farm
- The national day of protest by animal rights activists on 8 April 2019.

The chapter concludes with data on the Victorian animal agriculture sector and its role in the Victorian economy and an introductory overview of animal rights activism both in Victoria and overseas.

NB. The Committee received evidence from the complete spectrum of people concerned about how animals are treated in our society. This spectrum stretches from people who eat meat but want animals to suffer as little as possible, through to vegans who engage in unlawful acts as they believe that humans should not use animals in any way. For the sake of simplicity in this report, the Committee uses the terms 'animal rights activists' and 'animal rights stakeholders' when referring to these groups.

Chapter 2

Chapter 2 provides an analysis of the three main methods animal rights activists use to search for evidence of animal cruelty and publicise what they find, including:

- 'Open rescue'
- Covert actions
- Overt actions.

The analysis includes a discussion on whether direct action by activists can be considered civil disobedience and a recommendation from the Committee that the Victorian Government consider codifying a public interest exemption in the *Surveillance Devices Act 1999*. Chapter 4 ends with a summary of data on recent unauthorised activities in Victoria by animal rights activists

Chapter 3

Chapter 3 focuses on the impact that trespassing by animal rights activists has on farms and other businesses. The Committee learnt that apart from significant impact recent activities have had on farmers, workers and their families who have been targeted by activists, just the threat of being targeted is of great concern to many businesses in regional Victoria.

In Chapter 3, the Committee also acknowledges that some activists have no wish to cause harm to farmers or their families. Similarly, some activists believe that their actions are aimed at business facilities only and not homes. However, the Committee stresses that recent protests have caused genuine harm to farmers, their families and other animal agriculture workers who have been targeted. Aside from personal distress, the protests the Committee heard about have caused financial loss and raised concerns about biosecurity and health and safety issues.

The Committee condemns all acts of trespass and harassment of farmers and others working in agriculture in Victoria carried out by animal activists.

Chapter 4

Chapter 4 provides a list of offences and related legislation linked to animal rights activism. It then considers the approach taken to animal rights activism by the courts and Victoria Police. The courts' response to recent high-profile incidents of trespass and theft by animal rights activists has not been well received in regional Victoria, although the Committee stresses that the evidence concerns a very small number of cases only.

Chapter 4 also presents the evidence given by Victoria Police to the Committee. Victoria Police stressed that they do understand how serious this issue is to animal agriculture businesses and they work hard to overcome the challenges that come from policing remote parts of Victoria. The Chapter concludes with an overview of the different legislative approaches to animal rights activism taken by jurisdictions across Australia and the world.

Chapter 5

Chapter 5 presents evidence explaining the motivations that drive animal rights activists. The Committee found that activists argue there is a lack of transparency in the animal agriculture sector, which prevents the public from fully understanding how animals are treated. Activists believe that a fully informed public would choose to change from a meat-based diet to a plant-based diet.

The Committee also considered the question if a divide between urban and rural communities can explain criticisms of animal production methods. It found that a lack of knowledge of animal welfare practices and related legislation is a bigger driver of

community attitudes than an urban–rural disconnect. The Committee recommends ways in which it believes regulators and industry can work together to better inform the public.

Chapter 6

Chapter 6 discusses the multilayered regulatory framework supporting animal welfare in Victoria, which is comprised of state legislation and a small number of national guidelines. The chapter explains how prosecutions for farm animal cruelty are possible under the *Prevention of Cruelty to Animals Act 1986*. The Committee notes the Victorian Government’s plans to update the Act and makes suitable recommendations, including incorporating industry quality assurance programs into the Act and that the Victorian Government advocate for national standards and an Australian Commission for Animal Welfare.

Other recommendations in Chapter 6 include mandating the use of CCTV systems in abattoirs, where most public concern regarding animal welfare focuses, and that Agriculture Victoria conduct an audit of its responses to substantiated animal welfare complaints in 2019. The Committee believes this is one way in which Agriculture Victoria can help ensure public confidence in the complaints management system.

Chapter 6 ends with an overview of the bodies responsible for monitoring compliance with animal welfare standards in Victoria:

- Agriculture Victoria
- PrimeSafe
- RSPCA Victoria
- Victoria Police.

Findings and recommendations

2 The main types of unauthorised animal rights activist activity on Victorian agriculture

RECOMMENDATION 1: That in the context of the review of the *Prevention of Cruelty to Animals Act 1986* the Victorian Government consider the need to codify public interest exemptions in the *Surveillance Devices Act 1999*. 26

FINDING 1: The actions of animal rights activists when trespassing onto agricultural properties to gather information cannot be considered whistleblowing. 30

FINDING 2: Regulatory bodies in Victoria do not collect data that distinguishes between livestock theft committed by animal rights activists and livestock theft committed by non-activists. 33

RECOMMENDATION 2: That the Victorian Government instruct relevant regulatory bodies to collect data that distinguishes between livestock theft committed by animal rights activists and livestock theft committed by non-activists. This data should then inform policy development in this area. 34

3 Animal rights activists' impact on individuals and communities

FINDING 3: Acts of trespass, including the threat of trespass, by animal rights activists have caused physical and mental distress to many people in the agricultural industry, including farmers, their families and employees. 38

FINDING 4: For farmers and staff who reside on a farm, the whole property is their home. 39

FINDING 5: Animal rights activists who trespass onto agricultural facilities pose a biosecurity risk. All people who enter agricultural facilities must consult with property owners or managers and comply with their biosecurity protocols. 43

RECOMMENDATION 3: That Agriculture Victoria conduct an audit of the number of biosecurity management plans in place in animal agriculture businesses in Victoria. The Victorian Government should follow up this audit with assistance to enable those businesses without one to implement a biosecurity management plan. **45**

RECOMMENDATION 4: That the Victorian Government review the *Livestock Disease Control Act 1994* with a view to the creation of an offence for all visitors' / trespassers' non-compliance with a biosecurity management plan, including a requirement that all visitors / trespassers must comply with plans. In cases of trespass, it should be clear that there is no requirement for business owners to have explained the biosecurity management plan to those trespassing. **45**

RECOMMENDATION 5: That the proposed new biosecurity offence include an on-the-spot fine, similar to the New South Wales model, for non-compliance with biosecurity management plans. **45**

FINDING 6: Acts of trespass on agricultural facilities by animal rights activists are a risk to the health and safety of farmers, agricultural employees, livestock, emergency services, the public and activists themselves. **47**

4 The response of law enforcement to animal rights activism

FINDING 7: The penalties handed out following incidents of trespass and theft at the Gippy Goat Café did not meet the expectations of many stakeholders in this Inquiry and some sections of the community. **61**

5 The motivations of animal rights activists

FINDING 8: Industry peak bodies and regulators can do more to inform the public about Victoria's animal welfare standards. **84**

RECOMMENDATION 6: That Agriculture Victoria display online information about animal agriculture standard practices and related legislation and regulations. **84**

RECOMMENDATION 7: That Agriculture Victoria and PrimeSafe work with industry to collect examples of benchmark, high-quality animal welfare and biosecurity activities in animal agriculture to better inform the community of agricultural practices. **84**

RECOMMENDATION 8: As a continuation of Recommendation 6, that Agriculture Victoria make information about the ‘compliance continuum’ more accessible on its website. This would help the public better understand the approach regulators take regarding breaches of animal welfare regulations and standards. **87**

FINDING 9: Any alleged illegal acts against animals should be immediately investigated and, if proven, those guilty should be prosecuted. **88**

6 The regulatory framework for animal welfare in Victoria

FINDING 10: Many industry quality assurance schemes in the animal agricultural sector deliver higher animal welfare standards than those required by the codes of practice in the *Prevention of Cruelty to Animals Act 1986*. **97**

FINDING 11: Updating the codes of practice for animal welfare under the *Prevention of Cruelty to Animals Act 1986* would help ensure consumer confidence in the industry. **98**

RECOMMENDATION 9: That the Victorian Government express its support to the Commonwealth Government for the creation of an Australian Commission for Animal Welfare, in order to expedite the process for the agreement of the Australian Animal Welfare Standards and Guidelines. **98**

RECOMMENDATION 10: That the Victorian Government, in the absence of approved Australian Animal Welfare Standards and Guidelines, incorporate existing animal welfare elements of industry quality assurance schemes into new codes of practice as part of its modernisation of the *Prevention of Cruelty to Animals Act 1986*. **98**

RECOMMENDATION 11: That the Victorian Government consider its modernisation of the *Prevention of Cruelty to Animals Act 1986* to be a matter of priority. **98**

RECOMMENDATION 12: That the Victorian Government conduct an examination of alternative practices used around the world in the treatment of live male chicks in the egg industry and the use of blunt force trauma on goats, pigs, and cows with a view to adopting ‘world’s best’ practice. These standards should be higher than the existing codes of practice in the *Prevention of Cruelty to Animals Act 1986*. **99**

RECOMMENDATION 13: That any new codes of practice in the *Prevention of Cruelty to Animals Act 1986* include appropriate penalties for non-compliance. 99

RECOMMENDATION 14: That following consultation with industry, unions and other relevant stakeholders, the Victorian Government consider the implementation of closed-circuit television cameras in Victorian abattoirs with a legislative model similar to the *Mandatory Use of Closed Circuit Television in Slaughterhouses (England) Regulations 2018*. 103

FINDING 12: A low incidence of prosecutions for animal welfare offences in the animal agricultural sector does not indicate a lack of enforcement and compliance action by Agriculture Victoria. In some cases, businesses are given the opportunity to improve their practices before prosecution is considered. 107

RECOMMENDATION 15: That Agriculture Victoria conduct an audit of its responses to substantiated animal welfare complaints in 2019 to determine if the appropriate action was taken in each case. The results of the audit should be published on Agriculture Victoria's website. The results should be deidentified to ensure no breach of privacy occurs. 107

What happens next?

There are several stages to a parliamentary inquiry.

The Committee conducts the Inquiry

This report on the impact of animal rights activism on Victorian agriculture is the result of extensive research and consultation by the Legislative Council's Economy and Infrastructure Committee at the Parliament of Victoria.

We received written submissions, spoke with people at public hearings, reviewed research evidence and deliberated over a number of meetings. Experts, government representatives and individuals expressed their views directly to us as Members of Parliament.

A Parliamentary Committee is not part of the Government. Our Committee is a group of members of different political parties (including independent members). Parliament has asked us to look closely at an issue and report back. This process helps Parliament do its work by encouraging public debate and involvement in issues. We also examine government policies and the actions of the public service.

You can learn more about the Committee's work, including all of its current and past inquiries, at: <https://www.parliament.vic.gov.au/eic-lc>.

The report is presented to Parliament

This report was presented to Parliament and can be found at: <https://www.parliament.vic.gov.au/eic-lc/article/4205>.

A response from the Government

The Government has six months to respond in writing to any recommendations we have made. The response is public and put on the inquiry page of Parliament's website when it is received at: <https://www.parliament.vic.gov.au/eic-lc/article/4206>.

In its response, the Government indicates whether it supports the Committee's recommendations. It can also outline actions it may take.

1 The Inquiry

1.1 Introduction

This Chapter introduces the Inquiry into the impact of animal rights activism on Victorian agriculture. It includes the Inquiry's Terms of Reference and evidence gathering process, consisting of submissions, public hearings and site visits carried out by the Committee. The Chapter then covers the main themes in this report, beginning with a brief discussion of several prominent events leading up to the announcement of the Inquiry. It concludes with a snapshot of the Victorian animal agriculture sector and its role in the Victorian economy and an overview of animal rights activism both in Victoria and overseas.

1.2 The Terms of Reference

On 1 May 2019, the Legislative Council resolved that the Economy and Infrastructure Committee inquire into, consider and report, by Thursday, 28 November 2019, on the effectiveness of legislation and other measures to prevent and deter activities by unauthorised persons on agricultural and associated industries and in particular, the Committee should—

1. consider—
 - a. the type and prevalence of unauthorised activity on Victorian farms and related industries, and the application of existing legislation;
 - b. the workplace health and safety and biosecurity risks, and potential impacts of animal activist activity on Victorian farms, to Victoria's economy and international reputation;
 - c. animal activists' compliance with the *Livestock Disease Control Act 1994*, *Livestock Management Act 2010*, and the *Prevention of Cruelty to Animals Act 1986*;
 - d. the civil or criminal liability of individuals and organisations who promote or organise participation in unauthorised animal activism activities;
 - e. analyse the incidences and responses of other jurisdictions in Australia and internationally; and
 - f. provide recommendations on how the Victorian Government and industry could improve protections for farmers' privacy, businesses, and the integrity of our biosecurity system and animal welfare outcomes, whether through law reform or other measures.

On 13 August 2019, the Legislative Council agreed to a motion extending the reporting date for the Inquiry's final report from 28 November 2019 to 1 February 2020.

1.3 Submissions

The Committee advertised the Inquiry and called for submissions through its News Alert Service, the Parliament of Victoria website, and social media. The Committee sent out over 50 letters to various stakeholders to invite them to make a submission to the Inquiry. Stakeholders included industry groups, government departments, animal advocacy organisations, academics and others.

The Committee received 506 submissions. All submissions, except those regarded as confidential, were posted onto the Committee's website at:

<https://parliament.vic.gov.au/eic-lc/article/4202>.

1.4 Public hearings

The Committee held public hearings on the following dates, including a number of regional hearings:

- 20 August 2019 (Bairnsdale)
- 21 August 2019 (Warragul)
- 4 September 2019 (Melbourne)
- 17 September 2019 (Warrnambool)
- 18 September 2019 (Horsham)
- 23 September 2019 (Melbourne)
- 8 October 2019 (Wangaratta).

The Committee was interested in hearing from a cross-section of the community and a wide variety of stakeholders. Therefore, public hearings included industry groups, farmers, animal rights activists and organisations, and government departments.

Transcripts for public hearings held during this Inquiry can be found at:

<https://parliament.vic.gov.au/eic-lc/article/4203>.

1.5 Site visits

The Committee attended three site visits during the course of this Inquiry.

On 3 October 2019, Committee members visited the Victorian Livestock Exchange (Pakenham) and R Radford & Sons (Warragul). The Committee was shown the Livestock Exchange during a store cattle auction day, learning about the auction process, including how animals are moved and sold. During the visit the Committee and Exchange staff discussed the various animal welfare practices undertaken at the facility, to understand how best practice is followed. The Committee also heard about the Exchange's experiences with animal rights activists and how they affected the auction day and week.

On the same day, the Committee travelled to R Radford & Sons, an abattoir located in Warragul. The Committee learnt about the facility's animal welfare practices and staff explained the management plan developed in collaboration with local police in the event of trespass, protest or other unlawful activities.

On 7 October 2019, the Committee visited Edgar's Mission in Lancefield. Edgar's Mission is a sanctuary farm which cares for over 450 animals. During the visit the Committee toured the sanctuary and learnt about the aims and purpose of Edgar's Mission. The Committee saw the conditions animals live in on the farm and the care provided by staff.

1.6 Recent events

There has been an increase in animal rights activism across Australia in recent years, including an increase in incidents of trespass on farms and other industry property. This section provides details on notable developments and events in Victoria and Australia, including:

- The publication of the Aussie Farms Map
- Incidents at the Gippy Goat Café and Caldermeade Farm
- The nationwide protests that occurred on 8 April 2019.

The intention of this section is not to provide the Committee's analysis or view of the key events, it simply introduces prominent events the Committee discussed throughout this Inquiry. A full discussion of these events and their impact on agriculture in Victoria appears throughout the remainder of the report. Other case studies follow throughout this report, including protests at:

- Luv-a-Duck in Nhill
- LT's Egg Farm in Werribee
- Diamond Valley Pork in Laverton
- A chicken farm in the Mornington Peninsula.

1.6.1 The Aussie Farms Map

In January 2019, the animal rights organisation Aussie Farms published the Aussie Farms Map. The Aussie Farms Map is a tool linked to Google Maps that allows users to view a map of Australia on which the location of individual farms has been marked with an icon corresponding to the type of farming operation taking place there. Users can click on the icons to find out more information about the farm or commercial operation, including the company name, the address and the commercial activities that take place there. Users are also able to upload pictures, documents and news about the site. Farms or commercial operations at which a house is co-located with other agricultural buildings are visible on the map. In October 2019, *The Weekly Times* reported that a cattle farm owned by relatives of Mr Delforce does not feature on the Aussie Farms Map.

The Weekly Times also reported that the website included details of a vegetable farm.¹ The Committee notes that much of the information contained on the Aussie Farms Map is available via a Commonwealth Government Department website.

The Aussie Farms Map includes a sidebar with the following information about the data:

In development for over 8 years, the Aussie Farms Map is a comprehensive, interactive map of factory farms, slaughterhouses and other animal exploitation facilities across Australia, launched publicly in January 2019.

This map, linked with the Aussie Farms Repository, is an effort to force transparency on an industry dependent on secrecy. We believe in freedom of information as a powerful tool in the fight against animal abuse and exploitation.

Aussie Farms states that it does not condone or encourage the use of the map for 'illegal purposes, including trespass' or for any use contrary to its core values. These core values include animal rights, transparency and non-violence. In its submission to this Inquiry, Aussie Farms said the purpose of the map was to allow consumers to understand the operation and scale of industrial farming across Australia.² This sentiment was repeated at a public hearing by Mr Chris Delforce, Executive Director of Aussie Farms, who told the Committee:

We are simply trying to say that this is where animals are being bred and exploited and abused and killed for commercial purposes, and we think that this is something that consumers have a right to know about. Even seeing what these places look like from satellite imagery on Google I think for a lot of people is quite shocking, because they might not be imagining 10 identical, massive sheds containing hundreds of thousands of animals.³

A number of stakeholders raised concerns about the Aussie Farms map, such as:

- The use of surveillance and other unauthorised footage on the website
- That despite the disclaimer the use of unlawfully obtained footage and language such as 'exploited and abused' incites activists to trespass onto farms and other related industries
- That the privacy of individuals and their families was breached, a concern for farmers whose houses sit on the same property as their business
- That there is an assumption that all businesses were guilty of committing acts of cruelty towards animals because of their inclusion on the map.

1 Chantelle Francis and Shannon Twomey, 'Aussie Farms: 'Hypocritical' Chris Delforce leaves his family off farm map', *The Weekly Times*, 09 October 2019, <<https://www.weeklytimesnow.com.au/news/national/aussie-farms-hypocritical-chris-delforce-leaves-his-family-off-farm-map/news-story/2a36b9dce360dfdfecbe821ff4e5404e>> accessed 05 December 2019.

2 Aussie Farms, *Submission 395*, p. 2.

3 Mr Chris Delforce, Executive Director, Aussie Farms, public hearing, Melbourne, 4 September 2019, *Transcript of evidence*, p. 6.

Aussie Farms had been a Commonwealth registered charity until 18 November 2019 when the Australian Charities and Not-for-profits Commission revoked its charity status. Aussie Farms and the Committee's view on privacy and surveillance is discussed in more detail in section 2.3 of this report.

1.6.2 Gippy Goat Café & Farm

In December 2018, around 70 animal rights activists illegally entered Gippy Goat Café & Farm in Yarragon while the business was closed and stole livestock. This was the second time the owner, John Gommans, had been targeted on his Yarragon property by activists over a period of several months.⁴ At a public hearing in August 2019, Mr Gommans told the Committee about his experiences with activist-related activity on his properties:

This is what we have had to cope with since October of last year. My farms have been targeted by protesters on two occasions ... Livestock have been stolen repeatedly, and there were four occasions of that.⁵

One of the activists involved in the December 2018 incident received a \$1 fine under the *Livestock Disease Control Act 1994* for removing an identifying ear tag from a stolen goat and a further \$1 for housing livestock without a property identification code. They also received a fine of \$250 for theft of the livestock.

The Committee heard from Mr Gommans and a number of other stakeholders, including industry bodies such as the Australian Meat Industry Council⁶ and the Australian Livestock and Property Agents Association,⁷ that the penalty was too lenient and would not deter other activists from engaging in similar unlawful activities. The Committee learnt that this view is widely held across regional Victoria.

Mr Gommans said:

Rural people now know that trespass, theft and biosecurity breaches are trivial matters not worthy of the judiciary's time and effort. Two thousand dollars worth of livestock was stolen from us, and it still remains in the activists' hands. Compensation was set by the magistrate at \$250 with six months to pay—to date we have not seen anything—and the biosecurity breaches were assessed at \$1. So we were devastated by those results, and to us that was the grossest failure of justice. The impact on us and our staff is difficult to quantify, but I can tell you that it is quite severe. Imagine how hard it is to tell your staff after the court hearing that no-one gives a damn about them—that what we do, our farms, our business, are of no consequence at all.⁸

⁴ Michelle Slater, 'Activists target goat farm', *Latrobe Valley Express*, 27 December 2018, p. 1, <<https://www.latrobevalleyexpress.com.au/story/5828380/activists-target-goat-farm>> accessed 05 December 2019.

⁵ Mr John Gommans, public hearing, Warragul, 21 August 2019, *Transcript of evidence*, p. 27.

⁶ Australian Meat Industry Council, *Submission 246*, p. 7.

⁷ Australian Livestock and Property Agents Association, *Submission 390*, p. 6.

⁸ Mr John Gommans, *Transcript of evidence*, p. 29.

1 According to Mr Gommans, in the four months following the incident, he and other Gippy Goat Café staff were subjected to online harassment from activists.⁹ Mr Gommans has since closed the Gippy Goat Café and the adjoining farm is no longer open to the public, although it continues private operation. Footage and photographs from Mr Gommans' farm have also been posted on the Aussie Farms website.

Caldermeade Incident (October 2018)

The incident at the Yarragon Gippy Goat Café and Farm was not the first incident of animal activist-related trespass experienced by Mr Gommans and his staff. In October 2018, his Caldermeade Farm was invaded by activists protesting. At a public hearing Mr Gommans described the incident at Caldermeade and its effect on the staff:

So about 30 or 40 people turned up in October of 2018. Staff were upset by this and two of them subsequently resigned, one from the kitchen staff and one from the farm. Over the next three nights three kids and two calves were stolen from the petting zoo. We raised this issue on Facebook—I am not a fan of Facebook, but being in the business, you have to be on Facebook. We posted on Facebook about the Caldermeade events, and we were contacted by a number of farmers. They were farmers of all sorts—everything from chickens to pigs to beef to cattle and bee farmers. We were contacted by people from the horse industry—just riders, people who had horses—saying that they also had been attacked. So we became aware of the problem at that point, and we invested \$20 000 in cameras on our own farms for the inevitable day.¹⁰

In his submission Mr Gommans stated since installing cameras he has 'observed people coming into [the] farm and photographing security', which he believed showed 'that these invasions and thefts are organised and planned activities.'¹¹

1.6.3 Nationwide protests 8 April 2019

On 8 April 2019, animal rights activists held nationwide protests to mark the one-year anniversary of the release of the animal rights documentary *Dominion*. In Victoria, activists blocked the intersection of Flinders Street and Swanston Street and chained themselves to vans promoting the web link for *Dominion*. This caused major delays and traffic interruptions in the CBD. Protestors also gathered at abattoirs across the state, including in Corio, Laverton North, Pakenham and Bacchus Marsh. In Laverton North, animal rights activists trespassed onto the abattoir.¹²

In response to the nationwide protests, the Australian Chicken Growers Council wrote to the Attorneys-General and Agriculture Ministers in each jurisdiction requesting legislative reform to deal with 'farm trespass'.¹³

⁹ Ibid., p. 2.

¹⁰ Ibid., pp. 27–8.

¹¹ John Gommans, *Submission 278*, p. 4.

¹² 'Animal activists protest across the country, storm abattoirs, block Melbourne's Flinders Street', *ABC News*, <<https://www.abc.net.au/news/2019-04-08/tougher-laws-for-animal-rights-activists-amid-plans-for-protest/10979204>> accessed 11 October 2019.

¹³ Australian Chicken Growers' Council, *Submission 274*, pp. 6–7.

Victoria Police also expressed concern at the organisers' lack of engagement with law enforcement prior to the protests, which had a considerable impact on traffic conditions and public order. At a public hearing, Superintendent Peter Greaney explained to the Committee the police response on the day. He told the Committee:

... we had very little information in regard to what those particular groups would be doing on 8 April, on that anniversary date.

Obviously we speak amongst our members in regard to the response, whether it be in the city or regionally, and we had the protest in town where there was a blockade of Spencer and Flinders Streets. We had sufficient resources to respond to that, which we did using the current laws that we have in place to deal with that.¹⁴

The Committee heard from a number of stakeholders who supported the protests and stated that the intention was to raise awareness, not only of *Dominion*, but of animal welfare across the animal agriculture industry. In a submission to this Inquiry, Dilan Fernando contended that:

They [rescuers, investigators, whistleblowers and protestors] ignite conversations designed to progress us as a nation. For instance, the protests across the country in April of this year [2019] had millions of Australians talking about animals in a way they had never done before, and many of those conversations concerned the morality of eating animals.¹⁵

1.7 Victoria's animal agriculture sector

Victoria is Australia's largest agriculture producer with approximately 25% (estimated \$15 billion) of Australia's total gross value of agricultural production.¹⁶ There are approximately 21 000 farms across Victoria, which accounts for 25% of all farms in Australia.¹⁷ The agriculture sector generates over 207,000 jobs, such as pickers, packers, transport and logistics export companies, with 87 per cent of agricultural employment concentrated in regional areas.

The livestock sector is a major contributor to Victoria's agriculture industry with more than 70% of Victorian farms being livestock based. Animal industries contribute over 60% of Victoria's agricultural production.¹⁸ The Victorian livestock sector produces 60% of Australia's milk, 44% of Australia's lamb meat and 18% of Australia's beef meat.¹⁹ Milk (\$2.6 billion), cattle and calves (\$2 billion), and sheep and lambs (\$1.8 billion) contribute a combined total value of 43% to Victoria's agricultural production.²⁰

¹⁴ Superintendent Peter Greaney, Head of Practice for Livestock Theft and Farm Crime, Victoria Police, public hearing, Melbourne, 23 September 2019, *Transcript of evidence*, p. 33.

¹⁵ Dilan Fernando, *Submission 359*, p. 1.

¹⁶ Victorian Government, *Submission 419*, p. 7.

¹⁷ *Ibid.*

¹⁸ Agriculture Victoria, Inquiry into the impact of animal rights activism on Victorian agriculture, response to questions on notice, received 23 September 2019.

¹⁹ Victorian Government, *Submission 419*, p. 8.

²⁰ *Ibid.*

The Committee advises that where possible it has included the most recent data in the statistics below. Although some figures are several years old they provide a reliable view of the economic value of the different animal-based sectors.

1.7.1 Dairy

The dairy industry is Victoria's largest agricultural industry, producing an estimated \$1.8 billion worth of raw milk. This is processed into dairy products such as cheese, fresh and powdered milk, and other products.²¹ Victoria contributes 65% of Australia's annual milk production and has an export value of \$1.85 billion.²² According to the Victorian Farmers Federation website, the Victorian dairy industry accounts for 86% of Australia's dairy exports.²³

As of 20 December 2018, there were 5,195 dairy farms across Victoria spread across three regions: northern Victoria; south-west Victoria; and Gippsland.²⁴ In 2010-11, according to an industry profile conducted by Agriculture Victoria, there were approximately 10,600 people employed in dairy production and a further 9,300 employed in dairy processing.²⁵ More recent statistics on the Victorian Farmers Federation website estimate there are 16,000 Victorians employed on dairy farms and a further 11,000 employed in processing factories.²⁶

1.7.2 Beef

In 2017-18, Victoria contributed 17.8% of Australia's total beef and veal production.²⁷ The Victorian beef industry is the most geographically expansive agricultural industry in Victoria, comprising four main regions: the Western District; Gippsland; Ovens Murray; and Goulburn.²⁸ As of June 2017, there was an estimated 3.6 million head of cattle in Victoria.²⁹ Figure 1.1 shows the national cattle numbers by jurisdiction as at June 2017.

21 Agriculture Victoria, *Dairy*, 20 December 2018, <<http://agriculture.vic.gov.au/agriculture/dairy>> accessed 16 September 2019.

22 Ibid.

23 Victorian Farmers Federation, *United Dairy Farmers of Victoria*, N.D., <http://www.vff.org.au/vff/Industry_Groups/Dairy_UDV/Who%20We%20Are/vff/Industry_Groups/Dairy_UDV/Who%20We%20Are.aspx?hkey=ea8ddb0c-d2a2-4bb3-aaa1-f8866b2262f6> accessed 16 September 2019.

24 Agriculture Victoria, *Dairy*.

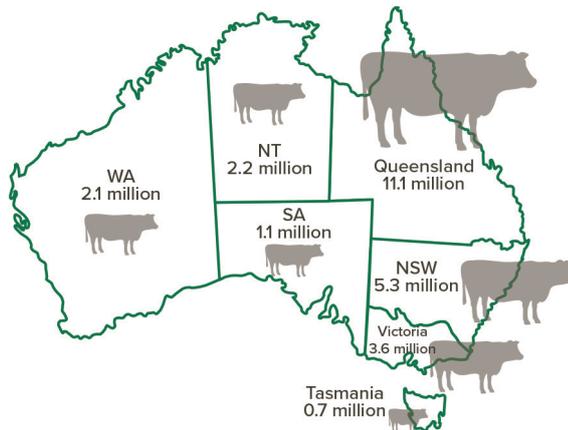
25 Agriculture Victoria, *Dairy Industry Profile*, Department of Economic Development, Jobs, Transport & Resources, 2014, p. 6.

26 Victorian Farmers Federation, *United Dairy Farmers of Victoria*.

27 Meat & Livestock Australia, *Fast Facts: Australia's beef industry*, 2018, <https://www.mla.com.au/globalassets/mla-corporate/prices--markets/documents/trends--analysis/fast-facts--maps/mla_beef-fast-facts-2018.pdf> accessed 31 October 2019.

28 Agriculture Victoria, *Beef*, 25 May 2017, <<http://agriculture.vic.gov.au/agriculture/livestock/beef>> accessed 16 September 2019.

29 Meat & Livestock Australia, *Fast Facts*.

Figure 1.1 National cattle numbers (as at June 2017)

Source: Meat & Livestock Australia, *Fast Facts: Australia's beef industry*, 2018, <https://www.mla.com.au/globalassets/mla-corporate/prices--markets/documents/trends--analysis/fast-facts--maps/mla_beef-fast-facts-2018.pdf> accessed 31 October 2019.

Over 15,000 Victorian agricultural businesses are involved in the beef industry.³⁰ In 2015-16, the Victorian beef industry's production value was \$2.2 billion, producing over 420,000 tonnes of beef.³¹ The production value of Victorian beef increased 63% from 2010-11 to 2015-16.³² Victoria had the second highest volume level of red meat and livestock exports, producing 23% of Australia's total export volumes.³³

Figure 1.2 explains the red meat and livestock supply chain from farm to consumer.

Figure 1.2 Red meat and livestock industry supply chain

Source: Ernst & Young, *State of the Industry Report: The Australian Red Meat and Livestock Industry*, October 2017, <<http://rmac.com.au/wp-content/uploads/2017/10/State-of-the-Industry-2017.pdf>> accessed 31 October 2019.

³⁰ Agriculture Victoria, *Beef*.

³¹ Agriculture Victoria, *Beef and Sheep: Invest in Victorian agriculture and food*, Department of Economic Development, Jobs, Transport and Resources, Victoria, 2018, p. 2.

³² Ibid.

³³ Ernst & Young, *State of the Industry Report: The Australian Red Meat and Livestock Industry*, October 2017, <<http://rmac.com.au/wp-content/uploads/2017/10/State-of-the-Industry-2017.pdf>> accessed 31 October 2019.

In 2015-16, there were approximately 43,853 people employed in the Victorian red meat and livestock industry.³⁴ Victoria accounted for 25% of people employed in the industry, with approximately 178,900 people employed across Australia (a 2% increase from 2014-15).³⁵ Beef cattle farming was the largest contributor to employment (36% nationally), followed by mixed farming and processing.³⁶ Figure 1.3 shows a summary of the Victorian beef industry from 2015-2016.

Figure 1.3 Victorian beef at a glance, 2015-2016



Source: Agriculture Victoria, *Beef and Sheep: Invest in Victorian agriculture and food*, Department of Economic Development, Jobs, Transport and Resources, Victoria, 2018.

1.7.3 Sheep meat and wool

The sheep meat and wool industry is the third largest agricultural industry (by value) in Victoria, with an approximate gross value of \$1.5 billion in 2012-13.³⁷ The industry is located across all regions in Victoria, but is concentrated in Warrnambool and the south-west, north-west, Hume and Bendigo regions.³⁸ In 2015, Victoria accounted for 20.6% (approximately 14,572,262) of Australia's sheep flock.³⁹ The number of businesses involved in the sheep industry (both meat and wool) in 2015-16 was 7,726.⁴⁰ Figure 1.4 is a summary of the Victorian sheep industry from 2015-2016.

³⁴ The red meat and livestock industry refers to beef cattle, sheep and mixed farming and feedlot production.

³⁵ Ernst & Young, *State of the Industry Report: The Australian Red Meat and Livestock Industry*.

³⁶ *Ibid.*, p. 20.

³⁷ Agriculture Victoria, *Sheep*, 10 November 2017, <<http://agriculture.vic.gov.au/agriculture/livestock/sheep>> accessed 16 September 2019.

³⁸ Agriculture Victoria, *Sheep Industry Profile*, Department of Economic Development, Jobs, Transport & Resources, 2014, p. 1.

³⁹ Ernst & Young, *State of the Industry Report: The Australian Red Meat and Livestock Industry*.

⁴⁰ Agriculture Victoria, *Beef and Sheep*, p. 2.

Figure 1.4 Victorian sheep at a glance, 2015-2016

	Number of businesses: 7,726
	Number of sheep: 13.1m head
	Total lamb produced: 222,866 tonnes
	Total mutton produced: 76,988 tonnes
	Value of lamb and mutton produced ¹ : \$1.32bn
	Value of wool: \$751.2m

Source: Agriculture Victoria, *Beef and Sheep: Invest in Victorian agriculture and food*, Department of Economic Development, Jobs, Transport and Resources, Victoria, 2018.

Victoria is the largest lamb and mutton producing jurisdiction in Australia, producing an estimated 49.6% of the Australian lamb production and 38.6% of Australian mutton production.⁴¹ In 2013-14, Victoria was one of Australia's largest suppliers of meat, exporting approximately 179,000 tonnes worth \$898 million. The total production value of Victorian lamb and mutton in 2015-16 was \$1.32 billion. Victorian wool production was valued at \$751.2 million.⁴²

In 2012-13, there were approximately 10,716 farms engaged in some form of sheep production with a total sheep population of 16.1 million.⁴³ Based on the 2010-11 Census of Population and Housing an estimated 11,828 people were employed on farms involved in sheep production. Out of these, 5,043 were involved in the sheep farming industry and a further 431 were employed in shearing services.⁴⁴

1.7.4 Chicken meat and eggs

Chicken meat and eggs are produced and managed in two separate industries. In 2012-13, Victoria produced 78 million dozen eggs from a flock of 3.7 million birds, and produced 243,000 tonnes of chicken meat (approximately 22% of Australia's total chicken meat production).⁴⁵ In 2015-16, Victorian egg production increased to 88.8 million, accounting for 27% of Australia's total egg production.⁴⁶ Figure 1.5 shows the changing value and volume of Victoria's poultry industry from 2005-2016.

⁴¹ Meat & Livestock Australia, *Fast Facts: Australia's sheepmeat industry*, 2018, <https://www.mla.com.au/globalassets/mla-corporate/prices--markets/documents/trends--analysis/fast-facts--maps/mla_sheep-fast-facts-2018.pdf> accessed 31 October 2019.

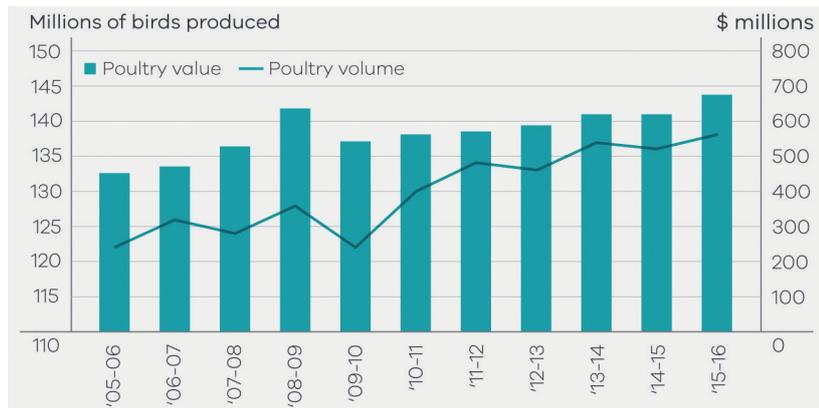
⁴² Agriculture Victoria, *Beef and Sheep*, p. 2.

⁴³ Agriculture Victoria, *Sheep Industry Profile*, p. 1.

⁴⁴ *Ibid.*, p. 5.

⁴⁵ Agriculture Victoria, *Poultry and eggs*, 24 October 2017, <<http://agriculture.vic.gov.au/agriculture/livestock/poultry-and-eggs>> accessed 16 September 2019.

⁴⁶ Agriculture Victoria, *Invest in Victoria: Poultry, pork, aquaculture and other livestock*, Department of Economic Development, Jobs, Transport and Resources, Victoria, 2018, p. 4.

Figure 1.5 Victoria's poultry by value and by volume, 2005-2016

Source: Agriculture Victoria, *Invest in Victoria: Poultry, pork, aquaculture and other livestock*, Department of Economic Development, Jobs, Transport and Resources, Victoria, 2018.

Chicken meat

Chicken meat accounts for 96% of poultry consumption in Australia.⁴⁷ Victoria contributes approximately 20% of Australia's chicken meat production, and 32% of other poultry production (by volume).⁴⁸ The vast majority of poultry products are sold domestically (approximately 97%).⁴⁹ The value of poultry processing in Victoria is worth an estimated \$1.3 billion.⁵⁰

The industry is largely vertically integrated meaning companies own facilities across the supply chain. However, as of December 2014 there were approximately 200 independent farmers contracted to grow meat chickens.⁵¹ Chicken meat processing facilities are typically located within 80km of metropolitan centres to minimise costs, improve infrastructure access and labour, and to be near consumer markets. Broiler chicken farms are usually located within 100km of their contracted processing facilities. Production facilities are located primarily in the Port Phillip and Westernport, Barwon, Gippsland, and Loddon regions.⁵² Figure 1.6 explains the chicken meat industry supply chain from quarantine to consumer.

⁴⁷ Agriculture Victoria, *Chicken Industry Profile*, Department of Economic Development, Jobs, Transport & Resources, 2014, p. 1.

⁴⁸ Agriculture Victoria, *Invest in Victoria: Poultry, pork, aquaculture and other livestock*, p. 4.

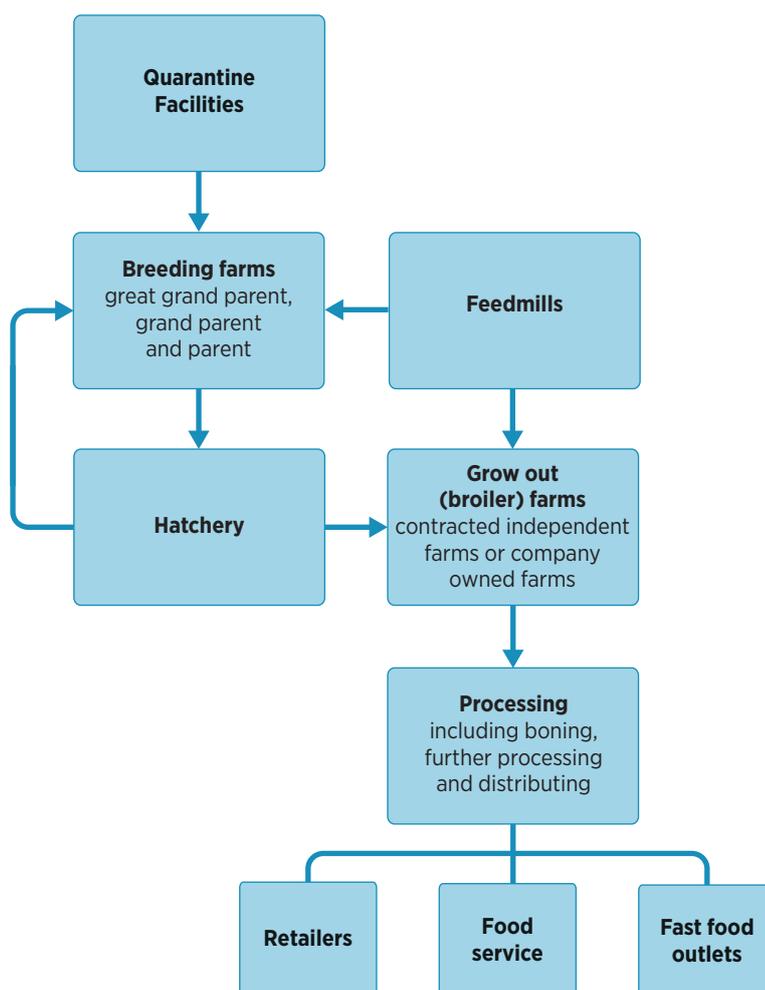
⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ Agriculture Victoria, *Chicken Industry Profile*, p. 1.

⁵² Ibid.

Figure 1.6 Chicken meat industry supply chain



Source: Agriculture Victoria, *Chicken Industry Profile*, Department of Economic Development, Jobs, Transport & Resources, 2014.

In 2014-15, the chicken meat industry directly employed an estimated 4,817 full-time equivalent roles, with a further 3,910 indirectly employed into full-time equivalent roles.⁵³

Eggs

In 1993, Victoria removed statutory marketing arrangements for eggs. Since then production has become more concentrated, with a few large producers in comparison to many small and medium sized producers.⁵⁴ The majority of eggs produced in Victoria are consumed domestically (approximately 85%),⁵⁵ with the remaining processed into egg products for both the domestic and export markets. Victoria's egg production is located mostly in the south-west and south-east regions of Victoria (close to

⁵³ RMCG, *Economic value of Victoria's chicken meat industry*, report for Department of Economic Development, Jobs, Transport and Resources, Victoria, 2016, p. 3.

⁵⁴ Agriculture Victoria, *Eggs Industry Profile*, Department of Economic Development, Jobs, Transport & Resources, 2014, p. 1.

⁵⁵ Agriculture Victoria, *Invest in Victoria: Poultry, pork, aquaculture and other livestock*, p. 4.

Melbourne), and in north-central Victoria (close to major highways). Farms are typically located close to feed sources and consumer markets.⁵⁶

There are three main production systems used to produce eggs: caged; barn-laid; and free range. Caged refers to a production system where poultry is housed in controlled environment sheds with computerised microclimatic control.⁵⁷ Cage-based production is the most cost-effective system in the egg industry, with hens kept in wire cages with dimensions that satisfy the minimum standards of animal protection regulations.⁵⁸ Barn-laid productions use automated deep litter systems where birds are free to move within a shed, but not outside thus eliminating the risk of predators whilst allowing hens to nest, dust bathe and perch.⁵⁹ Free range is a production system where hens have the ability to move around both indoors and outdoors. Commercial sheds range from 2,000 to 10,000 birds in comparison to 100 to 2,000 birds in semi-commercial sheds.⁶⁰

In 2010-11, approximately 1,520 people were employed on Victorian poultry farms and 2,660 in manufacturing poultry products.⁶¹ Of the 1,520 people employed on poultry farms, 370 were employed in the poultry meat industry, 733 in the poultry egg industry and 417 did not distinguish between the two.⁶²

1.7.5 Pigs

In 2015-16, the Victorian pork industry contributed \$480 million to the state economy.⁶³ Victorian pig farms are found predominantly in the Loddon, Goulburn, Wimmera, and Mallee regions with approximately 86% of Victorian pigs found in these regions.⁶⁴ In 2013, there were 312 commercial pig farms in Victoria producing a total of 529,903 pigs. Victorian pig producers also tend to be involved in other commodities such as sheep, beef cattle, wheat and barley production.⁶⁵ Figure 1.7 shows the changing number of pig numbers in Victorian agriculture from 1969 to 2013.

⁵⁶ Agriculture Victoria, *Eggs Industry Profile*, p. 1.

⁵⁷ *Ibid.*, p. 2.

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*

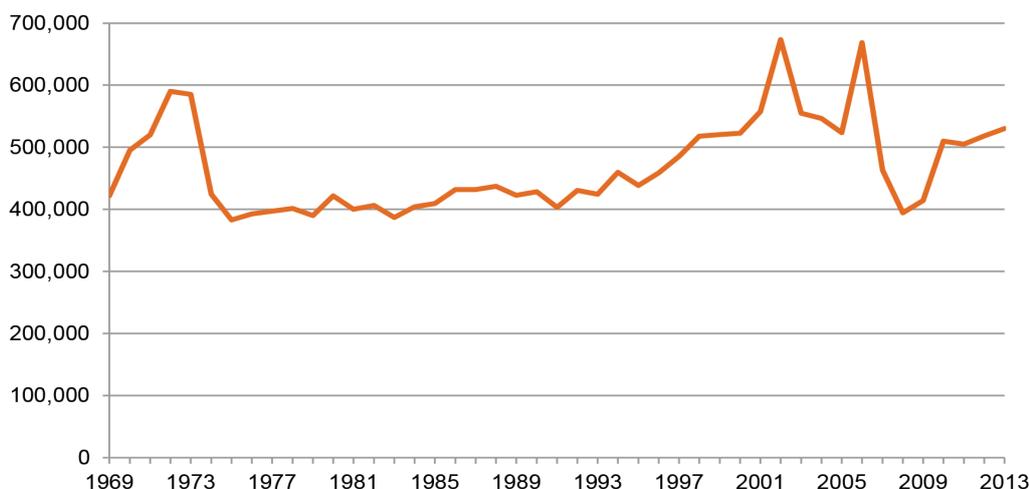
⁶¹ *Ibid.*, p. 6.

⁶² *Ibid.*

⁶³ VFF Intensive Industries Group, *Submission 399*, p. 2.

⁶⁴ Agriculture Victoria, *Pig, Goat and Deer Industry Profile*, Department of Economic Development, Jobs, Transport & Resources, 2014, p. 1.

⁶⁵ *Ibid.*, p. 3.

Figure 1.7 Total Victorian pig numbers from 1969 to 2013

Source: Agriculture Victoria, *Pig, Goat and Deer Industry Profile*, Department of Economic Development, Jobs, Transport & Resources, 2014.

According to the Victorian Farmers Federation Intensive Industries Group, the Victorian pig industry employs over 3,000 people in full-time equivalent positions.⁶⁶

1.7.6 Related sectors

The animal production industry includes a number of related sectors: abattoirs; saleyards; and livestock transportation.

Abattoirs

In Victoria, there are 21 licensed domestic abattoirs overseen by PrimeSafe and a further 18 licensed export abattoirs supervised by the Commonwealth Department of Agriculture and Water Resources. The majority of abattoirs are located in regional areas, with four abattoirs located in Melbourne.⁶⁷

Saleyards

Livestock producers have a number of options available to them to sell their stock, including via auction at a livestock saleyard. A livestock saleyard involves transporting livestock to central saleyard locations and auctioning them. Prices reflect the supply and demand of the market on the day of auction.⁶⁸

⁶⁶ VFF Intensive Industries Group, *Submission 399*, p. 2.

⁶⁷ Victorian Government, *Submission 419*, p. 8.

⁶⁸ Meat & Livestock Australia, *Selling options*, N.D., <<https://www.mla.com.au/research-and-development/Preparing-for-market/Selling-options#>> accessed 24 September 2019.

In its submission to this Inquiry, the Australian Livestock and Property Agents Association provided an overview of the economic output and the role of saleyards and property agents in the animal agriculture industry:

Victorian saleyards facilitate both cattle and sheep sales by public auctions and many Victorian producers rely on saleyards to sell their livestock. In some cases, this is their only source of annual income.

Victorian saleyards traded approximately 4.6 million sheep and nearly one million cattle in the 2017/18 financial year. An estimate of livestock traded for the 2017/18 financial year is in excess of \$2 billion (based upon average saleyard prices) and the majority of this money stays within rural and regional Victoria.

Outside the saleyard auction system, agents assist producers with on farm livestock sales. AuctionsPlus, an online auction selling platform that many ALPA members use for facilitating such sales advised that Victorian livestock sales in the previous financial year was in excess of \$79 million dollars.⁶⁹

Livestock transportation

Livestock transportation plays an important role in the animal agriculture industry by connecting various markets, producers and regions. The sector ensures livestock are adequately prepared for any journey to account for the stress transport might cause. Poor handling and preparation can harm livestock and reduce the quality of the product through the entire supply chain post-delivery.⁷⁰

In 2016, the Australian Livestock and Rural Transporter's Association provided a submission to the Productivity Commission's *Inquiry into the Regulation of Australian Agriculture*. The submission included details on the importance of transportation to agriculture:

Road transport is typically the first and last link of our agricultural supply chains, bringing vital supplies to our production centres and taking value-added produce to our markets.

While Australian farmers rely on rural trucking businesses to transport their produce and care for live cargos during transit, road transport is also a significant production cost. Beef cattle for example have the highest imbedded transport cost of all Australian commodities.

Transport costs significantly affect farm gate returns for individual agricultural producers. Fundamentally, higher transport costs mean lower returns and a decreased ability to reinvest in the productive capability of agricultural enterprises.⁷¹

⁶⁹ Australian Livestock and Property Agents Association, *Submission 390*, p. 4.

⁷⁰ Meat & Livestock Australia, *Transportation*, N.D., <<https://www.mla.com.au/research-and-development/animal-health-welfare-and-biosecurity/transportation/>> accessed 04 October 2019.

⁷¹ Australian Livestock and Rural Transporter's Association, submission to Productivity Commission, *Inquiry into Regulation of Agriculture*, 2016, p. 3.

1.8 Victoria's animal rights activism movement

The Committee engaged with many animal rights activists and related stakeholders throughout this Inquiry. This gave the Committee an understanding of unlawful activity by some activists on agricultural properties and the principles that drive these actions.

Animal rights activism is a social and political movement with goals that range from better treatment and improved welfare, through to an end to the status of animals as property and their use in the food, research, clothing and entertainment industries.

The movement can be broadly separated into two ideological categories. The first is those who are primarily interested in the welfare of animals, including animals bred or used for human consumption. They believe that the suffering of animals in such circumstances should be reduced and eliminated where possible. The other ideological category is those who believe in the abolition of all industries that use animals, such as animal production. In doing so they reject drawing moral and legal distinctions between people and animals.⁷²

The animal rights movement in Victoria can be traced back to the 1970s with the establishment of the Victorian branch of Animal Liberation. However, animal welfare had been a growing concern for the Victorian public since at least a century prior with the establishment of RSPCA Victoria in 1871.

This section provides a snapshot of two organisations that can be said to represent the two ideological categories of the animal rights movement in Victoria—RSPCA Victoria and Animal Liberation Victoria. The two organisations were chosen on the basis that they are widely known to the public and have a strong influence on the wider movement. Activists' use of online spaces is also discussed.

1.8.1 RSPCA Victoria

The RSPCA is Victoria's leading animal welfare charity organisation and is a member of RSPCA Australia. The organisation works with government and industry bodies to promote the welfare and humane treatment of all animals. In its submission, RSPCA Victoria outlined its policies regarding farm animal welfare:

The RSPCA federation advocates for the humane treatment of all farm animals (domesticated animals raised for the purpose of producing food and fibre). The RSPCA believes it is important to work with the farming community and other stakeholders to effect positive change and improve animal welfare throughout the lives of the animals, whether they be farming land-based or aquaculture systems.

The RSPCA encourages transparency throughout the supply chain to enable consumers to make informed choices about animal products.⁷³

⁷² The two categories of welfare and rights are combined as 'animal rights activism' in this report.

⁷³ RSPCA Victoria, *Submission 362*, p. 2.

Its submission also provided an overview of the animal welfare services it is involved in across Victoria:

RSPCA Victoria's community services included work undertaken by our Inspectorate, Animal Care Centres, Clinics and Education teams. RSPCA Victoria operates Animal Care Centres across Victoria, providing refuge, care and new homes where possible to more than 20,000 animals every year. Our team of 27 Inspectors work to protect animals from cruelty and neglect, by enforcing the *Prevention of Cruelty to Animals Act*, and by using powers given to us under Part 7 of the *Domestic Animals Act* as authorised by the Minister for Agriculture. They receive more than 10,000 animal cruelty reports every year, prosecuting offenders and rescuing animals from dangerous situations. Our Education team contributes to prevention strategies by influencing over 3,600 young people each year about the value and importance of animals in our lives.⁷⁴

The RSPCA told the Committee that it does not support unlawful activity in the pursuit of animal welfare goals. The organisation expressed a shared concern with the agriculture industry about the growing prevalence of trespass on farms and abattoirs by activists.⁷⁵

The role of the RSPCA in animal welfare enforcement is discussed in section 6.8.3.

1.8.2 Animal Liberation Victoria

Animal Liberation can be considered Australia's first animal rights activist organisation. The organisation uses direct action, such as 'open rescue' ('liberating' of animals, considered to be theft, that is often publicised, as opposed to clandestine actions) and publishing surveillance footage, to champion animal rights and improve animals' quality of life through preventing inhumane treatment.⁷⁶ The Victorian branch of Animal Liberation is particularly active within the organisation, being involved in a number of 'open rescues' and protests against the animal agriculture industry (see section 2.2 for information on types of activist activities).

Animal Liberation Victoria explained to the Committee the purposes and actions of its animal protection movement:

Since at least the 1970s, the Australian animal protection movement has used various means and methods to obtain materials, information, and evidence otherwise unavailable. Such activities are not undertaken carelessly and are generally engaged in only when other traditional avenues have proven untenable or ineffectual. All activists and interactions follow a strict policy of nonviolence. That the ultimate aim of any such activity is to provide both the relevant authorities and potential consumers with evidence of systemic abuse stems from the present status agricultural operations largely enjoy as "socially invisible places". The dissemination of materials may then

⁷⁴ Ibid.

⁷⁵ Ibid., p. 3.

⁷⁶ Animal Liberation, *Submission 312*, p. 6.

be considered to motivate additional activism, though this is largely in response to institutional failures stemming from innate conflicts of interests or refusals to initiate official investigations.⁷⁷

The tactics used and pioneered by Animal Liberation, especially ‘open rescue’, have been adopted by a number of other animal rights activist organisations. For example, the international protest movement ‘Meat The Victims’ removes animals from agricultural businesses and engages in other forms of civil disobedience across the world, including the occupation of a Queensland farm in March 2019.

‘Open rescue’ discussed in more detail in section 2.2.

1.8.3 Online community

A number of stakeholders told the Committee that animal rights activists have a strong online presence, using community pages and activist websites to communicate and organise. In particular, organisations such as Animal Liberation Victoria, Animals Australia and Aussie Farms use social media platforms to disseminate their messages and promote events, including using footage obtained unlawfully through ‘open rescue’ actions.

Stakeholders told the Committee about the importance of the internet for animal rights activists. A perception exists among these stakeholders that the animal agriculture industry operates under a ‘veil of secrecy’, a claim rejected by the industry. Therefore, online activity is considered essential in promoting transparency and improving consumer awareness of industry practices.

The motivations of animal rights activists, including the importance of transparency and consumer awareness, are discussed in more detail in Chapter 5.

1.9 Animal rights activism in other countries

Other Western nations, such as the United States of America and the United Kingdom, experience similar animal rights activism as Australia, including farm trespassing and livestock theft. However, particularly in the United States, there have been incidents where violent tactics have been used by activists. This has led to some politicians and law enforcement authorities labelling activists as ‘eco-terrorists’, albeit by conflating environmental and animal rights activism.⁷⁸ A report from the Department of Homeland Security into ‘bombing and arson attacks’ by environmental and animal rights extremists between 1995–2010, found that 22.6% of attacks targeted private homes (including farms) and 15.1% targeted meat/food processing plants.⁷⁹

⁷⁷ Ibid., p. 7.

⁷⁸ Aileen Brown, ‘How a Movement That Never Killed Anyone Became the FBI’s No. 1 Domestic Terrorism Threat’, *The Intercept*, <<https://theintercept.com/2019/03/23/ecoterrorism-fbi-animal-rights>> accessed 11 October 2019.

⁷⁹ Steven M Chermak, et al., *An Overview of Bombing and Arson Attacks by Environmental and Animal Rights Extremists in the United States States, 1995–2010*, report for Resilient Systems Division, Science and Technology Directorate, US Department of Homeland Security, START, College Park, MD, 2013, p. 3.

In 2006, the United States introduced the *Animal Enterprise Terrorism Act 2006* (colloquially referred to as ‘ag-gag legislation’⁸⁰). This amended the federal criminal code to create a specific offence for the intentional damaging of or interfering with animal enterprise operations. This also includes any conspiracies or attempts to cause damage.⁸¹ However, ‘expressive conduct’⁸² protected under the First Amendment is not prohibited, including peaceful demonstration, free speech and picketing.

The Committee spoke with Associate Professor Carrie Freeman, Georgia State University (United States) at a public hearing. Associate Professor Freeman explained that she believed the intent of the ‘ag-gag’ laws is to:

... further punish those who...share evidence with the public, evidence that companies will not share. The ag-gag laws also punish those who are trying to help animals who are suffering in these agribusiness facilities.⁸³

The majority of animal welfare stakeholders in this Inquiry criticised the development of ‘ag-gag’ laws in the United States as contrary to the democratic rights of free speech and political protest.

Similarly, some authorities in the United Kingdom have labelled animal rights activists as ‘extremists’ in response to the violent tactics used by organisations, such as the Animal Liberation Front.⁸⁴ Such tactics include the use of car bombs, incendiary devices, contaminated mail and arson attacks.⁸⁵ However, unlike the United States, the United Kingdom has not expanded counterterrorism legislation to include animal rights activists.⁸⁶ Instead, the Government:

... adopted an approach that focused on further criminalising animal rights activists’ behaviour by strengthening existing legislation and introducing new police powers. For example, the *Criminal Justice and Police Act 2001* provided new powers for the police to move protestors away from homes...⁸⁷

International legislative responses to animal rights activism is discussed in more detail in section 4.5.5.

⁸⁰ So called as it is considered to silence dissent.

⁸¹ Congress.Gov, *Animal Enterprise Terrorism Act*, <<https://www.congress.gov/bills/109th-congress/senate-bill/3880?q=%7B%22search%22%3A%5B%22%5C%22Animal+Enterprise+Terrorism+Act%5C%22%22%5D%7D&s=3&r=1>> accessed 11 October 2019.

⁸² *Animal Enterprise Terrorism Act 2006* (USA).

⁸³ Associate Professor Carrie Freeman, via teleconference, public hearing, Melbourne, 4 September 2019, *Transcript of evidence*, p. 1.

⁸⁴ Rachel Monaghan, ‘Not Quite Terrorism: Animals Rights Extremism in the United Kingdom’, *Studies in Conflict & Terrorism*, vol. 36, 2013, p. 933.

⁸⁵ Ibid.

⁸⁶ Ibid., p. 941.

⁸⁷ Ibid., pp. 941-2.

The main types of unauthorised animal rights activist activity on Victorian agriculture

2.1 Introduction

This Chapter describes the types of activities animal rights activists use to search for evidence of animal cruelty and publicise what they find. The three main methods the Committee considered as part of this Inquiry were ‘open rescue’, covert actions and overt actions. The Chapter includes a discussion on whether direct action by activists can be considered civil disobedience.

The Chapter also provides a summary of data on recent unauthorised activities in Victoria.

2.2 ‘Open rescue’

‘Open rescue’ is a form of direct action that involves animal rights activists entering agricultural facilities to ‘liberate’ / steal animals which they believe are suffering. During these actions activists often film the conditions the animals are kept in and release footage to draw attention to animal rights issues. The Committee also heard that it is common practice for individuals engaging in ‘open rescue’ to seek veterinary treatment for animals they purport to be sick or injured.

In 1993, Animal Liberation Victoria was involved in what it calls the first incident of ‘open rescue’. Noah Hannibal, Animal Liberation Victoria’s President, outlined in a submission that the organisation established the ‘open rescue’ technique.⁸⁸ This method, which often involves trespass, is based on the moral belief that it is wrong to allow animals to suffer:

Open rescues and investigations are based on the moral premise that it is wrong to knowingly let any individual, regardless of their species, suffer and die because they are being neglected, abused and mistreated by animal producers. Open rescue is strictly non-violent and any participants must adhere to this principle at all times. The immediate aims of open rescue are to save lives and to document the unethical conditions forced upon literally billions of animals.⁸⁹

⁸⁸ Noah Hannibal, President, Animal Liberation Victoria, *Submission 467*, p. 1.

⁸⁹ Ibid.

Animal Liberation Victoria founder Ms Patty Mark explained the principles that underpin ‘open rescues’, including non-violence, respect and trying to avoid biosecurity breaches:

... before every rescue I will give my name, I will say who I am from and that we have avowed non-violence and we are strictly here to give aid and rescue to any sick or injured animal or animal in need.

We teach respect for everyone, including the farmers, because I think the farmers—like I said, I know so many farmers—are such good people; it has just been our culture and our upbringing that means this is how things are done.

... we make sure that we disinfect our feet, we wear booties, we wear biosecure suits—it is very important to us. We never approach homes. I would be the last person to ever want to do anything illegal, but in my mind and in my heart what we are doing is not illegal. I would relate it to what happens when the SES or the fire department know there is someone trapped and they are dying.⁹⁰

‘Open rescue’ actions remain prevalent among animal rights activists.⁹¹ A number of online sites and communities, including websites for organisations like Animal Liberation Victoria, host footage of ‘open rescues’. A recent incident of ‘open rescue’ tactics which drew significant public attention was the theft of goats from the Gippy Goat Café. Ms Abby Zonino, who was involved in the incident, explained her and other activists’ motivation to the Committee:

I would now like to discuss the Gippy Goat action and the reason behind the liberation of Angel⁹² and others. Before I begin I would like to make it clear that activists did not attend the Gippy Goat farm to liberate animals. Our main goal was to create transparency around the goat dairy industry and exhibit to the public the state in which the goats were in and the way in which they are commodified.

...

After many unsuccessful attempts to get someone to help Angel, as any citizen who would be concerned about the wellbeing of someone else would do, activists decided to liberate Angel in order to get urgent vet care for her. The intentions behind the liberation of Angel were anything but sinister. An individual who was clearly suffering from unknown health complications and who could have possibly died had she not received vet care deserved to be liberated from such vile conditions. It was a morally right thing to do, and given the chance, where the circumstances are the same and no-one is willing to help, I believe that I speak for most activists when I say that we would do it again.⁹³

Ms Zonino further explained that she does not believe that her action should be considered theft, instead categorising it as ‘liberation’. She told the Committee that:

90 Ms Patricia Mark, Founder, Animal Liberation Victoria, public hearing, Melbourne, 4 September 2019, *Transcript of evidence*, p. 36.

91 *Ibid.*, p. 35.

92 ‘Angel’ is the name activists gave to the goat stolen from Gippy Goat farm. Activists have made claims that Angel required urgent veterinary attention.

93 Ms Abby Zonino, public hearing, Melbourne, 4 September 2019, *Transcript of evidence*, p. 53.

We [animal activists] do not see animals as objects, so you can steal a car but you cannot steal a person. You can liberate someone from harm, but stealing only applies if you see someone as property or an object.⁹⁴

The use of footage and surveillance by animal activists is discussed throughout this report, including in the following section.

2.2.1 Case study—Luv-a-Duck

In November 2018, approximately 55 animal rights activists trespassed onto the Luv-a-Duck facility in Nhill.⁹⁵ At a public hearing, Mr Daryl Bussell, CEO of Luv-a-Duck, explained to the Committee the actions of both activists and Luv-a-Duck staff during the incident:

We were called to the Luv-a-Duck processing facility in Nhill as a number of protesters had gone onto the site there. There were about 50 or 60. It was difficult to count, but about 50 or 60 had gone onto the site and had released some of the birds from the marshalling area. They had set up a temporary plastic swimming pool and were trying to encourage the ducks to swim in the swimming pool.

We instructed the staff not to physically get involved and to just stand their ground, not get involved, and we made a call to the police. There was no-one in Nhill that morning so they had to come from Horsham, so we had about an hour and a half or so where we stood around and just made sure that no-one got hurt.⁹⁶

The activists stole approximately 15–20 ducks and took them offsite.⁹⁷ Two of the activists were apprehended by the police with staff indicating they were willing to press charges for trespass and theft.⁹⁸ Mr Bussell told the Committee that the ducks stolen were never recovered.⁹⁹ As the Committee confirms in Chapter 4 of this report, the case against these activists is ongoing.

2.3 Covert action

Animal rights activists also use footage obtained unlawfully from inside farms and related businesses to promote their cause. The footage, of both illegal practices and standard industry practices which activists believe are cruel, is used to try and shift public opinion towards improving animal welfare standards across the industry. Footage may be obtained by a number of methods:

- Filming the conditions of animals while trespassing

⁹⁴ Ibid., p. 55.

⁹⁵ Carly Werner, 'Luv-a-Duck Nhill protest: activists take animals', *The Wimmera Mail-Times*, 29 November 2019, <<https://www.mailtimes.com.au/story/5784296/activists-take-animals-from-luv-a-duck-in-nhill>> accessed 04 December 2019.

⁹⁶ Mr Daryl Bussell, CEO, Luv-a-Duck, public hearing, Horsham, 18 September 2019, *Transcript of evidence*, p. 29.

⁹⁷ Ibid., pp. 29-30.

⁹⁸ Ibid., p. 30.

⁹⁹ Ibid.

- Trespassing to install unauthorised surveillance devices to capture conditions over a period of time
- Receiving footage and other evidence from employees within a company.

In 2018, the New South Wales Select Committee on Landowner Protection from Unauthorised Filming or Surveillance reported on the prevalence of unauthorised surveillance by animal rights activists in New South Wales. The report described how technology and the changing media landscape is affecting the capacity of activists to make use of unauthorised footage:

Inquiry participants expressed concern that the legislative and regulatory framework is not keeping pace with the rapidly changing media and technological environment, making it ineffective in dealing with unauthorised filming or surveillance. These changes include the ease with which images or footage can be published on social media platform—and the difficulty of having them taken down—and the increasing use of drones to film private property.

The rise of social media platforms like Facebook has changed the way unauthorised recordings and images can be disseminated. Those posting the material can connect directly with their audience, with no need for this material to be vetted for authenticity, as the committee was told would happen in the traditional media environment...¹⁰⁰

In its submission to this Inquiry, Aussie Farms, which publishes footage obtained by activists on its website, believed that unlawfully obtained footage has increased consumer awareness of cruelty in the animal agriculture sector:

The footage has in several cases caused widespread public outrage, with the chick maceration and pig gassing footage each seen by over 10 million people worldwide and recent footage of violent treatment and gassing during ‘depopulation’ at Victorian egg farms making national headlines.¹⁰¹

Ms Nicola Fanning described an alleged case of animal cruelty which she had exposed through taking unauthorised photos and videos:

I have been ‘working’ on a significant case in my local area for the past 3 years but particularly over the past 12 months. Agriculture Vic have finally brought animal cruelty charges against two of the three owners. The new District Veterinary Officer has been thoroughly engaged and committed and this has also brought about better welfare outcomes for the animals. However it is my belief that if I hadn’t continued with my regular surveillance which was risky, frightening and confronting, this case would once against not have been dealt with effectively.¹⁰²

This use of covert tactics is a key tool for animal activists. This activity is supported by the ability of activists to upload footage on social media or organisations’ websites to

¹⁰⁰ Parliament of New South Wales, Select Committee on Landowner Protection from Unauthorised Filming or Surveillance, *Landowner Protection from Unauthorised Filming or Surveillance*, October 2018, pp. 28-9.

¹⁰¹ Aussie Farms, *Submission 395*, p. 3.

¹⁰² Nicola Fanning, *Submission 108*, p. 1.

bring attention to the issue of animal welfare and, in the opinion of activists, provide transparency to the industry and protect animals from abuse.

Many activists also contend that covert action on farms is acceptable because farmers are unaware when it is happening. In the Committee's view, covert action causes significant distress for farmers and their families. Covert action may leave farmers feeling violated and worried about their security, akin to a family returning to a burgled home. The impact of unlawful activity on the wellbeing of farmers and others in the sector is discussed in Chapter 3.

2.3.1 Legal or not?

Many stakeholders in this Inquiry were unclear as to the legality or otherwise of animal rights activists trespassing in order to obtain footage of industry practices. This is because they are not sure if 'private activities' as defined under the *Surveillance Devices Act 1999* applies to livestock keeping, and therefore if businesses are protected or not from unauthorised surveillance.

Essentially, some animal rights activists believe their actions are prosecutable under the Act but should not be (or should be protected through exemptions under the Act), whereas some industry members believe activists' activities are not covered by the Act and should be (making them liable for offences under the Act).

For example, the Animal Defenders Office stated that under the *Surveillance Devices Act 1999* there is no 'public interest' exemption for recording or publishing 'private activities' which involve cruelty to animals.¹⁰³ It argued that this was different to recent amendments introduced in South Australia under the *Surveillance Devices Act 2016 (SA)*. Section 6 of the the Act includes a 'public interest' exemption for the use and installation of surveillance devices (including listening and optical devices) which would otherwise be in contravention of the Act.¹⁰⁴

The Animals Defenders Office recommended:

... that the *Surveillance Devices Act 1999 (Vic)* should be amended to include such an [public interest] exemption. Such an amendment would provide proper protection of both the public's right to be informed about the treatment of animals involved in food production, and animals' interests in not being mistreated.¹⁰⁵

The Australian Chicken Growers Council, on the other hand, believed that the term 'private activities' as defined in Victoria's *Surveillance Devices Act 1999* does not apply to livestock keeping and therefore offered impunity to activists to trespass. It recommended that 'the Act could be redrafted to cover livestock keeping as an activity to be protected against authorised surveillance.'¹⁰⁶

¹⁰³ Animal Defenders Office, *Submission 458*, p. 5.

¹⁰⁴ *Surveillance Devices Act 2016 (SA)* s 6.

¹⁰⁵ *Ibid.*

¹⁰⁶ Australian Chicken Growers' Council, *Submission 274*, p. 6.

The issue of ‘public interest’ and the installation of surveillance devices has yet to be tested in Victoria. While Section 11 of the Act provides an exemption for publishing footage that is in the public interest, as journalists as a rule do not reveal their sources, the people who make the recording therefore remain unknown to authorities. This would clearly change in the case of an animal rights activist publishing footage they have recorded themselves.

The *Surveillance Devices Act 1999* is discussed further in section 4.2.3.

RECOMMENDATION 1: That in the context of the review of the *Prevention of Cruelty to Animals Act 1986* the Victorian Government consider the need to codify public interest exemptions in the *Surveillance Devices Act 1999*.

2.4 Overt action

Animal activists often accompany covert tactics and ‘open rescue’ with public activism, such as online campaigns, protests and engaging with the media. This draws attention to their cause and issues they wish to highlight, thereby increasing pressure on industry and government to implement reforms.

Actions used by animal rights activists during protests include:

- Protests outside government buildings and businesses such as abattoirs, saleyards, and farms
- Trespassing onto private property
- Chaining themselves to equipment, vehicles and buildings
- Blocking livestock transport vehicles from entering or leaving an animal agriculture business
- Blocking or impeding traffic and movement in public areas.¹⁰⁷

The Livestock and Rural Transporters Association of Victoria provided the Committee with an example of a protest outside Diamond Valley Pork in Laverton North in 2018. During a five-day blockade:

... trucks were impeded from entering and were required to submit to a period of access by activists where they were allowed to film and place arms and hands inside livestock trailers for short periods. Vehicles were also hampered by protesters placing themselves in harm’s way in blind spots and resisting Victoria Police members trying to clear the access route. These actions were of extreme stress to drivers. Vehicles were filmed and images and negative comments were spread online about trucks and drivers.¹⁰⁸

¹⁰⁷ Livestock and Rural Transporters Association of Victoria, *Submission 357*.

¹⁰⁸ *Ibid.*, p. 3.

Activist stakeholders in this Inquiry argued that the ability to protest and hold public demonstrations is an important civic right and essential element of a democratic society. In particular, activists believe that protests play an important role in challenging social norms and attitudes leading to positive changes in society.

2.4.1 Case Study—LT’s Egg Farm

Animal rights activists have targeted LT’s Egg Farm in Werribee on several occasions. On one occasion, activists entered the farm at night and told the owner Mr Brian Ahmed that they intended to ‘rescue’ the chickens. The activists were caught after the police used police dogs to locate them.¹⁰⁹ Mr Ahmed said that the activists damaged doors and disrupted grading facilities, which caused close to \$10,000 worth of damage.¹¹⁰

The Committee was told the activists were given a fine of \$750, which was required to be paid to the RSPCA. Mr Ahmed’s daughter, Ms Danyel Cucinotta, who owns the farm with her family, said the court did not order the activists to pay for the damage to the property. This was covered by insurance with the business having to pay the excess for the claim. LT’s Egg Farm also suffered added costs as a result of the disruption, including spending around \$30,000 on increased security.¹¹¹

Ms Cucinotta explained how the fear of further invasion is causing ongoing stress:

I do not want to see anyone in my backyard. What am I going to do? Nothing. I am not going to do anything, but I am going to panic, and I do not know what I am going to do in that panic. I do not want to be looking like a scared crazy person, but that is probably how it is going to be. I am not saying anyone is going to hurt me, but the feeling is there, and I just do not want to do it.

The impact animal rights activists have on families and workers in the animal agriculture industry is discussed further in Chapter 3.

2.4.2 Case study—Diamond Valley Pork

Diamond Valley Pork is an abattoir and pork processing facility in Melbourne’s west. The facility has been the subject of several protests by animal rights activists. In its submission to this Inquiry, the business described the protests as ranging from ‘vigorous weeklong protests at the plant’s entrances marking seasonal industry events, to routine requests to stop livestock vehicles on adjoining public roads.’¹¹² The submission also notes that activists trespassed onto the roof of Diamond Valley Pork and chained themselves to equipment.¹¹³

¹⁰⁹ Ms Danyel Cucinotta, LT’s Egg Farm, public hearing, Warrnambool, 17 September 2019, *Transcript of evidence*, p. 21.

¹¹⁰ Mr Brian Ahmed, LT’s Egg Farm, public hearing, Warrnambool, 17 September 2019, *Transcript of evidence*, p. 22.

¹¹¹ Ms Danyel Cucinotta, *Transcript of evidence*, p. 20.

¹¹² Diamond Valley Pork, *Submission 251*, p. 1.

¹¹³ *Ibid.*

The submission notes that the interruption and costs to Diamond Valley Pork and the farmers and truck drivers who supply the business can be significant. Security costs during some protests have been ‘excessive’ and the company has incurred significant capital costs upgrading its perimeter security.¹¹⁴

2.4.3 Case Study—Mornington Peninsula chicken farm

On 1 September 2018, a group of around 70 animal rights activists invaded a chicken farm on the Mornington Peninsula. The invasion happened at 4.00am and the protestors themselves rang the police to report a ‘break and enter’. The police arrived around 6.30am and alerted the farm’s owners.

During the protest, the activists broke water lines, causing a flood, and forced open ventilation systems. They also pushed 18,000 birds 45 metres into the 130 metre long shed. This interrupted the shed’s management systems and delayed feeding. When the activists left the farm and the feeding system switched back the chickens attacked each other and approximately 300 chickens died. The protestors had also threatened the biosecurity of the farm.

The police informed the farm’s owner that there were too many activists for the police to arrest. As with all protests of this type, Victoria Police prioritise moving protestors away from the property as safely as possible.

At a public hearing, the farm’s owner told the Committee:

I asked them [the protestors] why they were there and what they hoped to achieve and I said to the policeman who was beside me, “I hope you’re going to arrest these people” and this gentleman said to me: “I’ve been arrested 17 times. I’ve never been charged, so go f--yourself”.

2.5 Civil disobedience and whistleblowing

Animal rights activists seek to influence public opinion in order to end what they see as harmful conventions or practices.¹¹⁵ They argue they play an important role in raising public awareness of an issue and aiding community understanding.¹¹⁶ Two recent examples of animal rights activists engaging in civil disobedience that led to change are protests at ‘puppy farms’ and live animal exports. In both of these cases, activists used video footage to reveal poor animal welfare standards.

Lawmakers face a challenge balancing public interest – in particular, the right of the public to be informed – and the rights of landowners to be protected from unlawful activities. Various advocacy and activists groups, such as the RSPCA, have called for

¹¹⁴ Ibid.

¹¹⁵ Fitzroy Legal Service, *Activists Rights*, N.D., <<https://www.activistrights.org.au>> accessed 11 October 2019.

¹¹⁶ Ibid.

a public interest exemption to protect individuals who take unauthorised footage of animal cruelty.¹¹⁷ This is discussed further in Chapter 5.

Many submissions also discussed the importance of whistleblowers in the animal agriculture industry who demonstrate a genuine and well-founded commitment to exposing cruelty against animals. For example, the Australian Food Sovereignty Alliance stated:

AFSA appreciates that throughout history civil disobedience has been a key catalyst to change for the greater good. Where animal welfare is compromised at particular farms, abattoirs and intensive animal production sites then without whistleblowing from concerned members of the public or news reporting by credible journalists, such offences could go unpunished.¹¹⁸

The Australian Food Sovereignty Alliance went on to recommend that any increased or new penalties directed at animal rights activism would need to be carefully constructed so as not to interfere with the right to freedom of speech.¹¹⁹

Ms Nichola Donovan told the Committee that freedom of speech is undermined when laws interfere with the expression of a particular class of persons. Ms Donovan said that in order to uphold these democratic principles laws must be created for ‘general application rather than targeted to suppress individuals or groups holding opinions contrary to the majority.’¹²⁰ The Committee agrees that Parliament must ensure legislation targets behaviour or actions, not individual groups.

Whistleblowing in the context of the animal rights movement was considered to involve both footage obtained by employees and by activists through trespass and unauthorised surveillance. The following excerpts taken from submissions are characteristic of activists’ perceptions of whistleblowing:

- ‘This was cruelty captured on video by brave whistleblowers who could not remain silent and allow this abhorrent behaviour to continue.’¹²¹
- ‘Please do not punish whistleblowers for showing us the truth.’¹²²
- ‘The whistleblower is not a spin doctor, he doesn’t meddle with the truth, he is just conveying the truth to the public who have every right to know what their money is supporting.’¹²³
- ‘Our reputation abroad is harmed, not due to animal rights whistleblowers, but due to abhorrent cruelty.’¹²⁴

¹¹⁷ RSPCA, *Submission 11*, submission to Parliament of New South Wales, Select Committee on Landowner Protection from Unauthorised Filming or Surveillance, Inquiry into Landowner Protection from Unauthorised Filming or Surveillance, 2018, p. 2.

¹¹⁸ Australian Food Sovereignty Alliance, *Submission 408*, pp. 5-6.

¹¹⁹ *Ibid.*, p. 6.

¹²⁰ Ms Nichola Donovan, public hearing, Melbourne, 4 September 2019, *Transcript of evidence*, p. 41.

¹²¹ Janet Wickens, *Submission 52*, p. 1.

¹²² Tilliah Brooks, *Submission 39*, p. 1.

¹²³ Stephen Bacon, *Submission 405*, p. 1.

¹²⁴ Gregory Bilston, *Submission 43*, p. 2.

- ‘Whistleblowing should not be seen as a criminal activity. In a world where so much is hidden, often for the benefit of the few, we need to applaud whistleblowers—the people who become aware of injustices and at great risk to themselves, do whatever is required to expose the wrongdoing.’¹²⁵

The Committee noted a conflation of the term ‘whistleblower’ by some members of the public to mean both individuals within the industry and activists unlawfully entering private enterprises to gather surveillance footage. It is the Committee’s view that the latter does not fall within the legal definition of a whistleblower. Animal rights activists trespassing or committing other unlawful acts to gather footage is not akin to an employee reporting illegal acts. The Committee supports employees who report acts of cruelty in their workplace to the relevant regulator. These employees would attract immunity as genuine whistleblowers.

The Committee also accepts that acts of civil disobedience can achieve positive changes in society. However, acts such as trespass, theft or property damage do not amount to civil disobedience. An activity may not constitute civil disobedience if it:

- Distresses, intimidates or harasses
- Interferes with lawful activities
- In the context of animal agriculture risks biosecurity, food security or workers’ safety.

The Committee also accepts some animal rights activists believe that they are causing no harm to farmers. The fact remains, though, that as is discussed in Chapter 3, farmers, their employees and their families feel violated and may live in fear following incidents of trespass, theft or other unlawful activities. This is despite the stated intention of activists to be non-confrontational and non-violent.

FINDING 1: The actions of animal rights activists when trespassing onto agricultural properties to gather information cannot be considered whistleblowing.

2.6 Data on activist-related activity in Victoria

Very little data exists quantifying the prevalence of unlawful activities connected to animal rights activism on Victorian agricultural sites. Despite the Committee hearing several individual case studies, it was not able to develop a clear picture of the frequency of incidents nor whether a recent increase in incidents represents a permanent change or a temporary trend.

¹²⁵ Connie Walker, *Submission 435*, p. 1.

The submission from the Victorian Government stated:

From January 2017 to May 2019, Agriculture Victoria responded to 31 alerts about potential animal welfare issues from animal activism-related individuals or organisations. Seventeen of these issues were substantiated following investigations by Agriculture Victoria staff and 14 were unsubstantiated.

Victoria Police have advised that there have been 11 instances of protest and 11 instances of trespass relating to animal activism reported to Victoria Police over the 12 months (from May 2018 to May 2019). No reports of violence or damage to property from uninvited entry to farms or related businesses were made to Victoria Police during this time.¹²⁶

The Committee also heard evidence that some incidents of animal activist trespass were unreported.

The Law Institute of Victoria told the Committee of an additional 14 animal rights activist protests in the same period that did not involve trespass.¹²⁷ Agriculture Victoria puts this figure at 11 instances.¹²⁸

2.6.1 Other data sources

The Committee also requested data from the Crime Statistics Agency, Magistrate's Court of Victoria and Victoria Police concerning:

- Activist-related activity on farms and related properties
- Sentencing and fine statistics for trespassing on agricultural land¹²⁹
- The number of crimes reported and individuals charged for activist-related activities on farms and related properties.¹³⁰

While the Committee was able to source data covering on-farm crime more broadly, data on crime relating to animal rights activism specifically is much more difficult to locate. For example, data available on the Crime Statistics Agency website, which includes location-type offences, showed a general increase in agricultural property offences from 2014–March 2019. The offences recorded by the Agency are organised under the following subsets:

- Farm house
- Farm building
- Farmland / agricultural

¹²⁶ Victorian Government, *Submission 419*, p. 7.

¹²⁷ Law Institute of Victoria, *Submission 424*, p. 4.

¹²⁸ Victorian Government, *Submission 419*, p. 4.

¹²⁹ Secretariat, Economy and Infrastructure Committee, Legislative Council, Parliament of Victoria, correspondence, 28 August 2019.

¹³⁰ Secretariat, Economy and Infrastructure Committee, Legislative Council, Parliament of Victoria, correspondence, 5 September 2019.

- Orchard (agricultural)
- Other agricultural.

However, the offences do not distinguish behaviour or background of the offending. As a result, the Committee was unable to draw inferences about the prevalence of farm and agricultural property crime related to animal rights activism. As well, the Crime Statistics Agency records break and enter offences but not trespassing offences.

The Committee also requested data from the Magistrate's Court of Victoria, asking for sentencing and fine statistics related to animal rights activists on agricultural land. However, the Magistrate's Court also does not record offences by behaviour or the specific background of the offence (i.e. related to activism or other purposes).¹³¹

The Committee's correspondence with Victoria Police covered the years 2014–2019 and included the following request:

- Incidences of crimes reported or people charged for animal activist-related activity on farms and related properties, saleyards, abattoirs and livestock transport. Particularly:
 - trespass
 - livestock theft
 - unauthorised use of surveillance devices
 - offences under the *Livestock Disease Control Act 1994*, and the *Livestock Management Act 2010*
 - offences under the *Prevention of Cruelty to Animals Act 1986*.¹³²

At the time of writing this report the Committee had not received a response.

The Committee followed up this request with Superintendent Peter Greaney at a public hearing. Superintendent Greaney told the Committee that he believed there to have been an increase in activist activities over the past 12 months, although he did not have exact figures to hand.¹³³

The Inquiry's Terms of Reference require the Committee to consider type and prevalence of unauthorised activity on Victorian farms and related industries. However, a lack of clear data makes it difficult for the Committee to comment on the extent to which this is occurring. The anecdotal evidence provided by stakeholders does suggest there has been a general increase recently, but as stated above there is no indication of the frequency of these incidents nor whether this is a permanent trend or not. The issue is further muddled by the fact that many regional communities in

¹³¹ Magistrates' Court of Victoria, correspondence, 29 August 2019.

¹³² Secretariat, correspondence.

¹³³ Superintendent Peter Greaney, Head of Practice for Livestock Theft and Farm Crime, Victoria Police, public hearing, Melbourne, 23 September 019, *Transcript of evidence*, p. 37.

Victoria believe incidents of trespass in particular are underreported. Mr David Jochinke, President, Victorian Farmers Federation told the Committee that there is a problem with under-reporting incidences of farm trespass, and this could be connected to a ‘resource issue’.¹³⁴

Superintendent Greaney also believed that ‘there is a degree of under-reporting’. He encouraged farmers to contact local farm crime liaison officers to ‘ensure farmers and primary industry report what is going on’.¹³⁵

The Committee also received evidence which suggested in some incidences police were not arresting activists despite evidence of offences being committed. At a public hearing Mr Graham Howell told the Committee he was not aware of any arrests made in connection to incidents he had experienced during livestock transportation:

I did not see any arrests, but the police seemed to let the activists have their time to say goodbye to the animals or whatever—gave them 2 or 3 minutes to just say a prayer or whatever they like to do to them. They seemed to give them that amount of time before they moved them on, but there were definitely no arrests at that time at that facility that I know of.¹³⁶

The Committee also learnt that commercial livestock theft by non-activists is another threat posed by farmers. For example, Mr Leonard Vallance, Chairman, Victorian Farmers Federation Livestock Group stated that livestock theft is a ‘major problem’ in rural communities.¹³⁷ Mr Mark Wootton from Jigsaw Farms provided a specific example, telling the Committee that the worst case of trespass he has experienced has been a poacher shooting his black bulls.¹³⁸

Superintendent Greaney advised the Committee that one reason obtaining data on thefts committed by animal rights activists is problematic is that it is difficult to ascertain if livestock has been stolen by poachers or ‘liberated’ by activists.¹³⁹ The recently formed Farm Crime Coordination Unit may be of use making this distinction in the future. The Unit is discussed in section 4.4.

FINDING 2: Regulatory bodies in Victoria do not collect data that distinguishes between livestock theft committed by animal rights activists and livestock theft committed by non-activists.

¹³⁴ Mr David Jochinke, President, Victorian Farmers Federation, public hearing, Melbourne, 23 September 2019, *Transcript of evidence*, p. 45.

¹³⁵ Superintendent Peter Greaney, *Transcript of evidence*, p. 34.

¹³⁶ Mr Graeme Howell, public hearing, Bairnsdale, 20 August 2019, *Transcript of evidence*, p. 37.

¹³⁷ Mr Leonard Vallance, Chairman, Victorian Farmers Federation Livestock Group, public hearing, Horsham, 18 September 2019, *Transcript of evidence*, p. 4.

¹³⁸ Mr Mark Wootton, Jigsaw Farm, public hearing, Horsham, 18 September 2019, *Transcript of evidence*, p. 12.

¹³⁹ Superintendent Peter Greaney, *Transcript of evidence*, p. 35.

RECOMMENDATION 2: That the Victorian Government instruct relevant regulatory bodies to collect data that distinguishes between livestock theft committed by animal rights activists and livestock theft committed by non-activists. This data should then inform policy development in this area.

3 Animal rights activists' impact on individuals and communities

3.1 Introduction

This Chapter covers the impact of trespassing and the threat of trespassing by animal rights activists on farms and other agricultural businesses. For the purposes of this Chapter, the Committee is referring to trespass involving groups of activists, as opposed to trespassing to set up equipment for covert filming.

The Committee heard recent actions by activists has had a significant impact on the physical, mental and economic health of people in the animal agriculture sector. These incidents can be extremely frightening to those who experience them, as well as cause concern among others who worry they may be the subject of trespass or protest in the future. The protests the Committee heard about have caused financial loss and raised concerns about health and safety issues and biosecurity breaches.

3.2 How trespass affects farmers and others in the sector

3.2.1 Direct experience of trespass

Farmers who have experienced trespass by animal rights activists told the Committee that they no longer feel safe in their homes and, in response, have increased security measures in an attempt to feel safer. Ms Danyel Cucinotta from LT's Egg Farm, whose farm has been subject to activist trespass, asked the Committee to consider the impact these incidents had on her and her family:

Put yourself in my shoes for a moment. Imagine I and a group of my friends jump your fence at a ridiculous hour of the night and you are woken by an alarm, dazed and confused. Then you are confronted by anywhere between two and 50 people and they believe they have the moral high ground over you. Imagine knowing your baby or your loved ones are inside and you have left the door unlocked. The panic and the fear is real, and it is such an unpredictable moment. Before you can say, 'It's peaceful', that is not something anyone can assume, especially when in any other circumstance this would be considered a home invasion.¹⁴⁰

140 Ms Danyel Cucinotta, LT's Egg Farm, public hearing, Warrnambool, 17 September 2019, *Transcript of evidence*, p. 21.

Ms Cucinotta told the hearing that although she and her sister are due to take over the farm from their parents, she is apprehensive at the prospect of moving her young family into the house as it may be subject to further trespass incidents. She said:

To be honest, at this stage I am too scared to live on the farm with my daughter and family, and if it is not good enough for me then it is definitely not good enough for my sister and it is not good enough for a staff member. Everyone should have the opportunity to work and live in a safe environment.¹⁴¹

The Committee also heard about the effect that activists' criticism of animal agriculture has had on farmers and farming communities, whose identities are closely linked with animal production. Mr David Jochinke, President of the Victorian Farmers Federation said that communities were under stress from activism directed against them:

To take the fact—and it is an absolute fact—that if this is allowed to continue, if this is to become a social norm, that the fabric of our communities, especially our rural ones, will absolutely lose confidence and disintegrate¹⁴²

Lisa Dwyer, a dairy farmer from south-west Victoria, said that activists were creating an environment where some farmers feared speaking about the benefits of livestock farming for fear of reprisal. She said that the number of mental health clients in south-west Victoria (per 1000 population) was double the statewide average¹⁴³ and that unfair criticism risks exacerbating this problem. Ms Dwyer said:

... any unjustified criticism by activists can have deep and lasting negative impacts on two things that no human should ever have to compromise—that is, their sense of who they are and their sense of self-worth.¹⁴⁴

Related industries are feeling under pressure, as well. Mr Graham Howell from the Livestock and Rural Transporters Association of Victoria described incidents where he and his son had been intimidated by activists while driving to an abattoir.¹⁴⁵ He told the Committee that he was upset at the way he had been treated by the protestors:

It really gets to you when they are calling you all those things and they do not even know you...

... It is pain, it is hurt...It upsets you mentally and all that sort of thing, you know? It is really...It is not very nice.¹⁴⁶

The Committee stresses that all workers have the right to feel physically and psychologically safe in the workplace, particularly when carrying out their business in compliance with the law.

¹⁴¹ Ibid., pp. 20-1.

¹⁴² Mr David Jochinke, President, Victorian Farmers Federation, public hearing, Melbourne, 23 September 2019, *Transcript of evidence*, p. 46.

¹⁴³ Ms Lisa Dwyer, public hearing, Warrnambool, 17 September 2019, *Transcript of evidence*, p. 4.

¹⁴⁴ Ibid.

¹⁴⁵ Mr Graeme Howell, public hearing, Bairnsdale, 20 August 2019, *Transcript of evidence*, pp. 32-3.

¹⁴⁶ Ibid., p. 34.

3.2.2 The threat of trespass

The Committee received evidence that although the number of businesses with direct experience of trespass is relatively small, a large number of people in the animal agriculture sector are concerned that they will be targeted at some time in the future. The fear of the unknown is genuine and strong. Key to these concerns is the fact that homes are located on the same property as the buildings that activists break into.

Mr Jochinke told the Committee that farmers see no distinction between trespass and home invasions:

Be under no doubt: family farms are our homes as well. It is our land: not just where we do it but how we do it. Our land is interconnected with who we are: into our memories, into our future and also our hopes for growing a better future for us and our families. That is why we say that a farm invasion is just the same thing as a home invasion.¹⁴⁷

This explains why even the possibility of trespass causes great concern. Mr Timothy Kingma, President of the Pig Group of the Victorian Farmers Federation, said that he had spoken to a farmer suffering significant distress because his farm was listed on the Aussie Farms Map, which may make him a target:

... when I talk about emotional and mental strain, the weekend after the Aussie maps was released I had another local producer ring me in tears. He was talking to me about ending his life. He could not understand that even though he was a legally operating business, having his business and his home address advertised to activists to go and terrorise him pushed him to the edge.¹⁴⁸

The Committee heard that farmers are now fearful of leaving their properties unattended because of the threat of trespass. Mr Leonard Vallance, a farmer and Chair of the Livestock Group at the Victorian Farmers Federation told the Committee about the impact this is having on the family and social lives of a neighbouring farm:

The young guys play footy, and they are involved socially and so forth, and it is very difficult for them to leave their business and go and enjoy the family parts of life. If they want to go to the lake for a swim or something like that, they cannot do it anymore. Someone has to stay home. The concept of the whole family going for a picnic or going fishing for the day—it cannot happen anymore. Someone has to stay at home.¹⁴⁹

Other farmers explained to the Committee the kind of precautions they were taking against the threat of trespassers. Katherine Cain, a beef farmer from south-west Victoria, outlined some of the measures she had taken to secure her farm. She told the Committee:

That would be things as simple as making sure all gates on properties have got a padlock on them. We have a biosecurity sign on our gate. We also have a 'Trespassers

¹⁴⁷ Mr David Jochinke, *Transcript of evidence*, p. 39.

¹⁴⁸ Mr Timothy Kingma, public hearing, Wangaratta, 8 October 2019, *Transcript of evidence*, p. 7.

¹⁴⁹ Mr Leonard Vallance, Chairman, Victorian Farmers Federation Livestock Group, public hearing, Horsham, 18 September 2019, *Transcript of evidence*, p. 8.

will be prosecuted' sign, which is a relic from the past, but that is all there. It is not like we have got video surveillance and all that sort of stuff out there, but we have got things in place so that in the event of something like that happening we are in a position where we feel that we could deal with that situation appropriately.¹⁵⁰

The remote location of farms in areas far from the nearest police station or neighbouring properties exacerbates this anxiety. Mr Kingma told the Committee that it would take the police some time to respond to activists trespassing on his farm:

The issue with farmers is often we are isolated and remote. My town only has one police station, so if he is not in his hour of shift, he cannot come. So therefore they have got to come from another 40 minutes away—the next policeman—so a response can be a difficult thing in remote areas and for farmers.¹⁵¹

The submission to this Inquiry from the Victorian Government acknowledged these fears.¹⁵²

FINDING 3: Acts of trespass, including the threat of trespass, by animal rights activists have caused physical and mental distress to many people in the agricultural industry, including farmers, their families and employees.

3.2.3 Animal rights activists' views in relation to trespass

Several submissions from animal rights activists, including PETA Australia,¹⁵³ Vegan Australia¹⁵⁴ and Vegan Rising,¹⁵⁵ defended the actions of activists, stating that they focus on facilities that house animals, not the homes of farmers. At a public hearing, Mr Chris Delforce from Aussie Farms said:

We need to differentiate between the farm itself and the home. One is a business; one is a private residence. Activists like myself only have interest in the business and what is happening where the animals are. There are not thousands of pigs and chickens being farmed in the home. Just because it is on the same legal property, that does not make it the same thing, and I think we are seeing a lot of attempts to conflate these two things as though they are the same thing. It is about distracting attention away from the fact that what is happening to animals in these places is wrong. It is trying to make it an issue of farmers versus vegans and farmers feeling threatened, when it is not their homes at all that are the target. It is these massive sheds with thousands of animals.¹⁵⁶

¹⁵⁰ Ms Katherine Cain, public hearing, Warrnambool, 17 September 2019, *Transcript of evidence*, p. 16.

¹⁵¹ Mr Timothy Kingma, *Transcript of evidence*, p. 9.

¹⁵² Victorian Government, *Submission 419*, p. 9.

¹⁵³ PETA Australia, *Submission 177*, p. 3.

¹⁵⁴ Vegan Australia, *Submission 308*, p. 5.

¹⁵⁵ Vegan Rising, *Submission 482*, p. 1.

¹⁵⁶ Mr Chris Delforce, Executive Director, Aussie Farms, public hearing, Melbourne, 4 September 2019, *Transcript of evidence*, pp. 13–4.

The Aussie Farms submission further contends that when farmers raise concerns about their families and their homes they are attempting to shift attention from the issues that activists want to highlight, namely the 'systemic, legalised (and sometimes illegal) animal cruelty occurring without transparency or regulation.'¹⁵⁷

The Committee acknowledges that to date there is no evidence of violence among animal rights activists engaged in trespass. Further, as discussed in section 2.5, many activists believe they are engaging in civil disobedience and sincerely wish no harm on farmers or their families. Regardless, as the quotations in the previous section show, the intimidation and fear described by the sector as a result of activist activity are genuine and are not raised as an attempt to distract from the issues activists wish to highlight. Animal rights activists engaged in trespass must understand for farmers their whole property is their home.

The offences related to trespass and associated penalties are discussed in Chapter 4.

FINDING 4: For farmers and staff who reside on a farm, the whole property is their home.

3.3 Biosecurity

Biosecurity is the management of risks to the economy, environment and the community caused by pests and diseases.¹⁵⁸ In an animal agriculture setting this relates to policies to prevent the establishment and spread of pests and diseases that harm or kill livestock or put human health at risk. Secure biosecurity management plans ensure the production of safe and traceable goods sold domestically and overseas.¹⁵⁹

3.3.1 The biosecurity framework in Victoria

The Commonwealth Government is responsible for biosecurity at the national border. This includes quarantine measures and the detection of pests or diseases at the border, including those in imported goods.¹⁶⁰ Victoria, along with the other states and territories, is responsible for ensuring biosecurity within its borders. It does this through a number of acts and regulations.¹⁶¹ The primary acts relating to biosecurity in animal agriculture are the *Livestock Management Act 2010* and the *Livestock Disease Control Act 1994*.¹⁶²

¹⁵⁷ Aussie Farms, *Submission 395*, p. 13.

¹⁵⁸ Council of Australian Governments, *Intergovernmental Agreement on Biosecurity*, 2019, p. 3.

¹⁵⁹ Agriculture Victoria, *Victorian Government submission*, submission to, Intergovernmental Agreement on Biosecurity Review, 2012, p. 3.

¹⁶⁰ Council of Australian Governments, *Intergovernmental Agreement on Biosecurity*, p. 6.

¹⁶¹ They are: the *Livestock Disease Control Act 1994*; *Livestock Disease Control Regulations 2017*; *Livestock Management Act 2010*; *Livestock Management Regulations 2011*; *Catchment and Land Protection Act 1994*; *Fisheries Act 1995*; *Biological Control Act 1986*; *Impounding of Livestock Act 1994*; *Impounding of Livestock Regulations 2018*; *Land Act 1958*; *Wildlife Act 1975*; *Marine Act 1988*; and the *Stock (Seller Liability and Declarations) Act 1993* (Victorian Government, *Submission 419*, p.5).

¹⁶² Victorian Government, *Submission 419*, p. 10.

3.3.2 *Livestock Management Act 2010*

The *Livestock Management Act 2010* provides a framework to regulate specific standards relating to livestock management. It affects anyone owning, managing or working with livestock in any capacity as they relate to a specific and prescribed standard. Currently, these are the pig welfare standards and the land transport standards. The Act and related regulations are administered by the Department of Jobs, Precincts and Regions.

Section 50 of the Act prohibits a person engaging in a regulated livestock management activity, to which a prescribed livestock management standard relates, from acting in a manner that results in serious risk to human health, animal welfare, biosecurity or the spread of disease. A person committing an offence under this section may be liable for a maximum penalty of \$9913 (60 penalty units).

It is unlikely that animal activist activities would be covered by offences under the Act unless they were involved in a regulated livestock management activity (such as owning or managing).

3.3.3 *Livestock Disease Control Act 1994*

The *Livestock Disease Control Act 1994* is administered by the Department of Jobs, Precincts and Regions. It sets out requirements that protect livestock from disease and maintain domestic and international market access.¹⁶³ According to the Victorian Government submission, offences in the Act relevant to this Inquiry relate to identified quarantine risks around moving people and animals within and out of quarantined areas¹⁶⁴ and other interactions with animals that may have a disease. The offences are:

Section 11 of the Act creates an offence for moving animals within a declared area, or moving animals out of a declared area, without authority from an inspector. A person committing an offence under this section may attract a maximum penalty of \$9913.

Section 12 of the Act creates an offence where a person moves, exposes or undertakes other specified activities with a diseased animal. A person committing an offence under this section may be liable for a maximum penalty of \$19,826 (120 penalty units) and/or 12 months' imprisonment.

Regarding exotic diseases (those which are not present in the country),¹⁶⁵ the Victorian Government outlined offences relating to the movement of people and livestock in and around areas already declared as quarantine areas (declared areas):

¹⁶³ Ibid.

¹⁶⁴ Sections 3 and 110 (1) and (2) of the Livestock Disease Control Act 1994 defines a quarantine area as any premises, place or vehicle that has been given a notice by an inspector to be quarantined so as to prohibit and restrict the movement of any livestock, livestock product fodder, fitting or vehicle onto or out of the premises, place or vehicle affected by the notice.

¹⁶⁵ Section 3 of the Livestock Disease Control Act 1994 defines exotic diseases as foot and mouth disease and rabies, as well as any other contagious or infectious disease, or any condition to which any livestock is subject, that the Governor in Council declares to be an exotic disease.

Section 24 and section 25 of the Act create offences for entering or exiting declared areas or moving livestock, products and feed into or out of declared areas without permission. A person committing an offence under these sections may be liable for a maximum penalty of \$59,480 (360 penalty units) and/or 36 months' imprisonment.¹⁶⁶

The Victorian Government also identified other 'offences which may be triggered when a restricted area or control area has been declared by the Minister for Agriculture in circumstances where an exotic disease needs to be prevented, controlled or eradicated.'¹⁶⁷ Penalties may apply to activists who enter private property in a declared area:

If an activist enters private land that is a declared area or transports livestock into or out of a declared area (or an area that is restricted or controlled through declarations under this Act), they may be committing an offence.¹⁶⁸

The Committee notes that the biosecurity offences outlined in the Victorian Government's submission that may apply to activists only apply once a quarantined area or a 'declared area' notice has been put in place. These offences are aimed at preventing the spread of disease once it has been established in a particular area. They do not require activists to undertake or comply with biosecurity measures that would prevent the introduction of diseases onto farms in the first place.

3.3.4 The biosecurity threat from animal rights activists

It was the view of many Inquiry stakeholders that animal rights activists pose a threat to biosecurity. The Victorian Government submission noted that unauthorised entry of activists may lead to the introduction or spread of disease to and within farms and other agricultural facilities. Diseases can be spread by people moving from farm-to-farm or within a farm through contaminated clothing, footwear, vehicles or equipment.¹⁶⁹ People unfamiliar with biosecurity practices at particular farms may mix livestock with different disease statuses. Activists may also be exposed to zoonotic diseases, which can be spread from animals to humans.¹⁷⁰

Mr Michael Rosier, Acting Executive Director of Biosecurity at Agriculture Victoria gave evidence to the Committee at a public hearing about the biosecurity risks posed by activists trespassing onto farms and other agricultural facilities. He said that Victoria's agricultural sector is at risk from exotic animal diseases brought in from outside the country, such as African swine fever or foot and mouth disease. He stressed the importance of ensuring that such diseases, if they do enter the country, are contained. Mr Rosier gave the example of the foot and mouth epidemic in the United Kingdom

¹⁶⁶ Victorian Government, *Submission 419*, p. 10.

¹⁶⁷ *Ibid.*

¹⁶⁸ *Ibid.*

¹⁶⁹ *Ibid.*, pp. 8-9.

¹⁷⁰ *Ibid.*

in 2001 and noted the effort to contain the spread and eradicate the disease was the country's 'largest logistical exercise since the Second World War.'¹⁷¹

Mr Rosier also discussed the spread of endemic animal diseases already present in animal populations or regions in Australia.¹⁷² He noted the potential for activists to inadvertently spread such diseases through trespass and other activities:

There is a risk of people potentially—through mixing with livestock and opening gates, that sort of thing—creating a transfer of endemic disease even within a herd on a property. Sometimes producers will very deliberately segregate parts of their herd because they have different disease statuses or have been treated or there are new stock on the property; there are reasons why they do that. However, people that may be coming onto that property may not be aware of the biosecurity practices and the things occurring on the property, so that may inadvertently result in some of those things occurring.¹⁷³

The Great South Coast Food and Fibre Council brought the Committee's attention to the risk of activists jeopardising the market-based quality assurance accreditations farmers are required to follow to supply particular markets:

There is absolutely no regard for any of these compliance issues from these activists invading farms, and for the activists themselves there is a risk of undermining all of those things that those farms have been working on or those businesses have been working on for a number of years. For example, to take an accreditation from the start of the process to getting fully accredited under internationally recognised quality accreditation systems takes a number of years and an investment of a lot of money. So we think that quality accreditations on farms are in jeopardy because of unauthorised entry.¹⁷⁴

Market-based quality assurance schemes are discussed in Chapter 6 of this report.

Ms Lisa Dwyer, a dairy farmer from Western Victoria was asked about the difference between the biosecurity risk posed by farmers moving from farm-to-farm and the threat posed by animal rights activists. She said that the threat posed by activists was more concerning because the risk could not be controlled or mitigated against:

I think that the difference, though, is that they are known risks and can be addressed accordingly. So where we might have a truck coming onto the farm or we might have a discussion group that are coming onto the farm, we can take the appropriate measures to reduce or mitigate some of those risks. With invasions, we do not have that opportunity. They just turn up.¹⁷⁵

¹⁷¹ Mr Michael Rosier, Acting Executive Director, Biosecurity Services, Biosecurity and Agriculture Services, Agriculture Victoria, public hearing, Melbourne, 23 September, *Transcript of evidence*, p. 3.

¹⁷² Animal Health Australia, *Endemic Disease*, N.D., <<https://www.animalhealthaustralia.com.au/what-we-do/endemic-disease>> accessed 30 September 2019.

¹⁷³ Mr Michael Rosier, *Transcript of evidence*, p. 4.

¹⁷⁴ Mr Anthony Ford, Executive Officer, Great South Coast Food and Fibre Council, public hearing, Warrnambool, 17 September 2019, *Transcript of evidence*, p. 8.

¹⁷⁵ Ms Lisa Dwyer, *Transcript of evidence*, p. 5.

The Committee heard that some activists do have regard for the importance of biosecurity and put measures in place to reduce the risk of their actions causing biosecurity breaches. Ms Patty Mark, from Animal Liberation Victoria told the Committee that biosecurity was very important to her organisation when entering farms and that they wore biosecure suits, disinfected their feet and wore 'booties' for added protection.¹⁷⁶

While this may be case for certain groups, not all protestors are as educated or as conscientious as Ms Mark. Some protestors, for example, trespass on farms and abattoirs without taking any precautions at all.

The Victorian Farmers Federation Intensive Industries Group dismissed the biosecurity measures taken by activists:

Animal activists who invade farms do not follow biosecurity protocols upon entry. The belief of dressing up in costumes to act as protective clothing does not act as a biosecurity measure, or prevent a potential disease transfer.¹⁷⁷

This view was repeated by Mr Kingma, who believed the biosecurity precautions taken by activists were inadequate: 'I know I have seen somewhere that they throw on a white jumpsuit thinking they are all of a sudden biosecure.'¹⁷⁸ He explained that everyone who enters an animal agriculture business site must consult with the owner or manager about the biosecurity protocols in place, otherwise biosecurity risks remain.¹⁷⁹

FINDING 5: Animal rights activists who trespass onto agricultural facilities pose a biosecurity risk. All people who enter agricultural facilities must consult with property owners or managers and comply with their biosecurity protocols.

Despite these concerns, Agriculture Victoria confirmed to the Committee that it is not aware of any reported outbreaks of disease caused by animal rights activists.¹⁸⁰ This does not negate the risk to biosecurity posed by unauthorised entry to farms and related businesses. Nor does it negate the fact that while many animal rights activists believe they are taking adequate measures by wearing biosecure suits, this is not always enough, especially if a business's biosecurity plans are not adhered to. Clearly, just because a breach has yet to occur in Victoria does not mean that one will never occur.

¹⁷⁶ Ms Patricia Mark, Founder, Animal Liberation Victoria, public hearing, Melbourne, 4 September 2019, *Transcript of evidence*, p. 36.

¹⁷⁷ VFF Intensive Industries Group, *Submission 399*, p. 5.

¹⁷⁸ Mr Timothy Kingma, *Transcript of evidence*, p. 8.

¹⁷⁹ *Ibid.*

¹⁸⁰ Mr Michael Rosier, *Transcript of evidence*, p. 3.

3.3.5 Non-activist threats to biosecurity

The Committee also heard about biosecurity threats from sources other than activists. Chris Nixon, a farmer from Orbost, explained his concern about hunters trespassing on his property:

Sadly, in the high country, where we have a farm, we get incursions all the time from deer shooters. They think it is a God-given right that they can cut the fence and drive through whenever they feel like it, especially when your Government maps say the roads end at my farm. So it is a huge issue.¹⁸¹

Ms Jan Kendall, a former farmer and animal welfare advocate gave examples of trespass on her farm from people as varied as duck shooters and some who 'came through our fences on mushrooming expeditions'.¹⁸²

3.3.6 Preventative biosecurity measures

The Committee understands the importance of preventing outbreaks of disease in Victoria's animal agriculture sector. The Committee is concerned that biosecurity offences under the *Livestock Disease Control Act 1994* may not provide for the prevention of disease outbreak in businesses (farms, saleyards and abattoirs), particularly in the case of activist trespass.

This view was put to the Committee by the Australian Chicken Growers' Council in its submission to the Inquiry:

... it is more likely that a disease will be inadvertently introduced by activists entering a 'clean' farm after having been on an infected site, in which case the *Livestock Disease Control Act 1994* is of limited use.¹⁸³

It is not known how many farms and other animal agriculture businesses, including livestock transport businesses, in Victoria have biosecurity management plans in place. The Committee believes that biosecurity in Victoria would be strengthened by Agriculture Victoria conducting an audit of biosecurity management plans across the state and for the Victorian Government to then assist those businesses without a plan to put one in place.

The Committee supports the approach taken in New South Wales and Queensland (see section 4.5) that requires all visitors to comply with a biosecurity management plan, where one is in force. The Committee believes the creation of a similar requirement would assist in preventing both the introduction and spread of disease in Victoria. It may also act as a deterrent and better enable prosecutions consistent with the serious biosecurity threat trespassing poses to Victorian agriculture, regardless of who is

¹⁸¹ Mr Chris Nixon, public hearing, Bairnsdale, 20 August 2019, *Transcript of evidence*, p. 7.

¹⁸² Ms Jan Kendall, public hearing, Melbourne, 4 September 2019, *Transcript of evidence*, p. 18.

¹⁸³ Australian Chicken Growers' Council, *Submission 274*, p. 5.

trespassing or why. Importantly, it would not be incumbent upon business owners to explain biosecurity management plans to individuals who are on their property without permission.

RECOMMENDATION 3: That Agriculture Victoria conduct an audit of the number of biosecurity management plans in place in animal agriculture businesses in Victoria. The Victorian Government should follow up this audit with assistance to enable those businesses without one to implement a biosecurity management plan.

RECOMMENDATION 4: That the Victorian Government review the *Livestock Disease Control Act 1994* with a view to the creation of an offence for all visitors' / trespassers' non-compliance with a biosecurity management plan, including a requirement that all visitors / trespassers must comply with plans. In cases of trespass, it should be clear that there is no requirement for business owners to have explained the biosecurity management plan to those trespassing.

RECOMMENDATION 5: That the proposed new biosecurity offence include an on-the-spot fine, similar to the New South Wales model, for non-compliance with biosecurity management plans.

3.4 Health and safety

The Committee considered the risks to the health and safety of employees, livestock and animal rights activists as a result of activist activity. It was the view of those who the Committee spoke with that many of these risks come from activists trespassing onto farms without full knowledge of how to interact with animals or other farm practices.

3.4.1 Health and safety obligations

As business owners, farmers and other agricultural businesses have a duty to ensure the health and safety of their employees and visitors.¹⁸⁴ The Committee heard from some in the agriculture sector that trespassing and protests are an unknown risk that make it harder to fulfil those obligations. For example, Ms Cucinotta explained:

If the farm invasion happens during the day, as an employer I am responsible for the safety of our staff. I cannot predict the actions of unknown individuals in the workplace I manage.¹⁸⁵

¹⁸⁴ *Occupational Health and Safety Act 2004* (Vic) s 21.

¹⁸⁵ Ms Danyel Cucinotta, *Transcript of evidence*, p. 21.

A similar concern was raised by Diamond Valley Pork, an abattoir and export licenced pig processing facility. In its submission, it explained how unauthorised entries may leave companies exposed to compensation claims:

The *Victorian Work Health and Safety Act 2011* stipulates businesses have a primary duty of care for the safety of all workers and any other persons at the workplace, including visitors. Uncontrolled and illegal visitor entry risks injury to the visitor, injury to our people, and possible subsequent compensation claims against our business.¹⁸⁶

3

3.4.2 Risks to animals

Stakeholders also discussed the risks that trespassers pose to the health of animals. The Great South Coast Food and Fibre Council said that animals may become stressed by large groups of strangers wearing unfamiliar clothing and, at night, carrying torches.¹⁸⁷

Mr John Gommans from the Gippy Goat Café told the Committee that activists may have accidentally harmed the goat that was stolen from his farm:

In terms of stress on stock, bundling them into the back of a car—I am pretty sure that was stressful to them, yes. It is not normal [and] they clearly had banged one of those goats on the head as they were trying to shut the door.¹⁸⁸

Similar comments were made in the Victorian Government's submission, which noted that transporting stolen animals, for example in the boot of a car, along with being illegal causes discomfort and stress to the animals.¹⁸⁹

Animal rights activists such as Mr Delforce from Aussie Farms counter this concern by stating that the slaughter of livestock is a far larger threat to their health and wellbeing than any stress caused by mishandling.¹⁹⁰

3.4.3 Risks to activists

There are significant health and safety risks on farms. These risks are particularly acute for those who lack knowledge about farm safety practices around animals and machinery. For example, Mr Patrick Hutchinson, CEO of the Australian Meat Industry Council gave the Committee an example of an incident in New South Wales where activists put themselves in danger by chaining themselves to dangerous machinery:

So we note that, specifically because in the recent activism issues that have occurred we have seen people tie themselves to machines that—essentially they have no idea what those machines are. And they do that, basically, in the very early morning. And when

¹⁸⁶ Diamond Valley Pork, *Submission 251*, p. 2.

¹⁸⁷ Ms Georgina Gubbins, Chair, Great South Coast Food and Fibre Council, public hearing, Warrnambool, 17 September 2019, *Transcript of evidence*, p. 7.

¹⁸⁸ Mr John Gommans, public hearing, Warragul, 21 August 2019, *Transcript of evidence*, p. 32.

¹⁸⁹ Victorian Government, *Submission 419*, p. 9.

¹⁹⁰ Mr Chris Delforce, *Transcript of evidence*, p. 9.

they do that, they do not understand the mechanisms by which these processing facilities actually operate. Not in Victoria, but in New South Wales we were extremely lucky that a livestock manager...actually saw one of those individuals breaking in. Had he not seen it, a central switch would have been turned on and those people tied to that machinery—...

In most circumstances we believe the injuries would have been catastrophic. Basically the way in which they were tied up would have probably ripped their arms off because we, and the company, would not have known they were there.¹⁹¹

The Victorian Government noted that activists may also risk the safety of emergency responders called to assist.¹⁹²

FINDING 6: Acts of trespass on agricultural facilities by animal rights activists are a risk to the health and safety of farmers, agricultural employees, livestock, emergency services, the public and activists themselves.

3.5 Economic impact and international reputation

3.5.1 Economic impact of animal rights activism

Financial losses for businesses

The financial costs to businesses caused by trespassing by animal rights activists can be significant. These costs include both loss of production at the time of the trespass and the security upgrades that follow.

One business that suffered financial loss is Luv-a-Duck, a Nhill-based company that provides ducks and duck products. Mr Darryl Bussell, the CEO of the company described a protest where a number of activists trespassed on one of Luv-a-Duck's processing facilities, stole several ducks and climbed to the roof to hang banners.¹⁹³ Mr Bussell estimated the costs incurred as a result of the halt to processing while the activists were present ran into the tens of thousands of dollars.¹⁹⁴

Mr Brian Ahmed, the owner of LT's Egg Farm explained how his business upgraded its security after an incident of trespass at a considerable cost. The upgrade involved installing approximately 30 security cameras and 8-foot fencing around the perimeter of the property.¹⁹⁵

¹⁹¹ Mr Patrick Hutchinson, CEO, Australian Meat Industry Council, public hearing, Warragul, 21 August 2019, *Transcript of evidence*, p. 20.

¹⁹² Victorian Government, *Submission 419*, p. 9.

¹⁹³ Mr Darryl Bussell, CEO, Luv-a-Duck, public hearing, Horsham, 18 September 2019, *Transcript of evidence*, p. 29.

¹⁹⁴ *Ibid.*, p. 31.

¹⁹⁵ Mr Brian Ahmed, LT's Egg Farm, public hearing, Warrnambool, 17 September 2019, *Transcript of evidence*, p. 21.

The Committee also heard of delays to livestock transport and the postponement of work at abattoirs that have caused financial loss.¹⁹⁶ The Committee notes that civil action is an avenue open to businesses that suffer financial loss as a result of activist activity. The Victorian Government submission stated:

Civil action may also be available to owners of commercial animal enterprises. The common law provides various remedies for these incidents, including trespass to land, trespass to chattels and the tort of nuisance.¹⁹⁷

Regional economic impact

Animal agriculture industries obviously comprise a large part of regional economies. Ms Dwyer outlined the importance of the dairy industry to the communities of south-west Victoria:

Because this region is now the nation's largest dairy sector, because of the peaks and troughs that every sector goes through but particularly agriculture, when dairy is faced with challenges, then the entire region feels it. You know, you can walk into any shop in this town here and they will tell you that their success or failure relies on the dairy community.¹⁹⁸

This view was reiterated by Mr Kingma, who speculated on the impact of his farm closing:

I employ 12 people and that goes a long way to filling up a fifth of the local school with kids of people I employ. If all of a sudden they are unemployed— As a group of farmers in our region we own a feed mill; that then has more impacts. The indirect impacts of our farm going out of business would be immense for our small community that relies on pigs and dairy.¹⁹⁹

As noted throughout this report, some activists wish to see animal agriculture replaced by crop farming. That is, they do not wish to see regional economies disappear, rather they envisage current jobs in animal agriculture being replaced by new jobs providing plant-based food. The Committee asked witnesses across several public hearings about the economic impact of such a switch. The Great South Coast Food and Fibre Council spoke for many stakeholders in believing that regional communities would suffer a large economic shock if required to adapt from one form of food production to another.²⁰⁰

It should be noted that the Committee was not provided with evidence of regional economic decline due to protests by animal rights activists to date. Nor has it seen economic modelling of the impact on regional communities of a wholesale transition

¹⁹⁶ Diamond Valley Pork, *Submission 251*, p. 2.

¹⁹⁷ Victorian Government, *Submission 419*, p. 13.

¹⁹⁸ Ms Lisa Dwyer, *Transcript of evidence*, p. 4.

¹⁹⁹ Mr Timothy Kingma, *Transcript of evidence*, p. 9.

²⁰⁰ Mr Tony Ford, Executive Officer, Great South Coast Food and Fibre Council, public hearing, Warrnambool, 17 September 2019, *Transcript of evidence*, p. 13.

from animal-based to plant-based agriculture. Regardless, as the Committee states in section 5.7 of this report, a wholesale transition to crop farming in Victoria is not feasible.

3.5.2 International reputation

The Committee received evidence that threats to Victoria's biosecurity system from animal rights activists could damage Victoria's international reputation as a producer of safe food.²⁰¹ It also received evidence from animal rights activists arguing that breaches of animal welfare standards or excessive punishments for activists are an equal or greater threat. For example, the Animal Defenders Office, a community legal organisation, stated:

... the mistreatment of animals on Victorian farms, and especially the unconscionable conditions of animals kept in intensive confinement on Victorian farms, are far greater risks to Victoria's local and international reputation, and therefore its economy, than 'animal activist activity'.²⁰²

Mr David Lyden said that excessive punishment of activists for their political beliefs may also harm Victoria's reputation:

... what farmers really want is protection against their mistreatment of animals being made public. That obviously has a detrimental effect on their ability to sell the product, and obviously it affects our reputation as a humane and just society. I do not think making activists into political prisoners is going to enhance our reputation as a humane and just society either.

There has undoubtedly been a rise in 'conscious' or 'ethical' consumerism across the globe and bad animal welfare practices cannot be protected under the guise of safeguarding Victoria's commercial interests. The Committee believes that these changes in consumer patterns mean it is vital for Victoria to maintain its reputation as a producer of both safe animal products and a region with high animal welfare standards. It is imperative for the industry and animal welfare advocates to work together to protect Victoria's biosecurity system while also committing to constant improvement in animal welfare standards.

²⁰¹ Councillor Daniel Meade, Deputy Mayor, Moyne Shire Council, public hearing, Warrnambool, 17 September 2019, *Transcript of evidence*, p. 40.

²⁰² Animal Defenders Office, *Submission 458*, p. 2.

4 The response of law enforcement to animal rights activism

4.1 Introduction

This Chapter provides a list of offences and related legislation linked to animal rights activism. It then considers law enforcement agencies' response to animal rights activism. It finds that the courts' response to recent high-profile incidents of trespass and theft by animal rights activists does not meet the expectations of many Victorians. The Chapter also discusses Victoria Police's approach to incidents, including the challenges police face working in remote parts of Victoria.

The Chapter concludes with an overview of legislative approaches to animal rights activism taken in jurisdictions across Australia and the world.

4.2 Offences that may apply to animal rights activists

4.2.1 Trespass

Summary Offences Act 1966

Trespass is primarily dealt with under the *Summary Offences Act 1966*. Section 9 of the Act outlines trespass offences that may be applicable to animal rights activists who enter private property without the permission of the owner, who refuse to leave a private place after being warned to do so by the owner, or who enter a private place in a manner likely to cause a breach of the peace. A further part of Section 9 outlines an offence for wilful damage of property under the value of \$5000.

The Victorian Government's submission provided a summary of the offences:

- **Section 9(1) (e) and (f)** of the Act creates an offence where a person wilfully enters a private place without lawful excuse or refuses to leave when asked to do so.
- **Section 9(1) (c)** of the Act creates an offence where a person wilfully damages property of value less than \$5000.
- **Section 9(1) (g)** of the Act creates an offence where a person enters any place in a manner likely to cause a breach of the peace without a lawful excuse to do so.²⁰³

The penalty for persons found guilty of the above offences is a maximum of 25 penalty units (currently \$4131) or six months' imprisonment.²⁰⁴

²⁰³ Victorian Government, *Submission 419*, p. 12.

²⁰⁴ *Summary Offences Act 1966* (Vic) s 9.

Crimes Act 1958

The *Crimes Act 1958* also provides for trespass offences. The offences under the Act are more serious offences than those set out in the *Summary Offences Act 1966* and may attract larger penalties.

According to the Victorian Government's submission, a number of offences in the Act may be applicable to animal rights activists, depending on the nature of their conduct.²⁰⁵ These may include:

- **Section 197(1)** of the Act creates an offence where a person intentionally destroys property belonging to someone else without lawful excuse.
- **Section 76** of the Act creates an offence where a person enters (trespasses within) a building with intent to steal, assault a person or damage the building or property within the building.²⁰⁶

The penalty for persons found guilty of the above offences is a maximum of 1200 penalty units (currently \$198,264) or 10 years' imprisonment.²⁰⁷

The merits of the current trespass offences as they apply to animal rights activists is discussed in detail in section 4.6.

4.2.2 Animal welfare

Prevention of Cruelty to Animals Act 1986

Several offences under the *Prevention of Cruelty to Animals Act 1986* may apply to animal rights activists. The Act sets out offences for cruelty to animals that may arise as a consequence of activist activity, for example, transporting animals in an unsuitable vehicle.

According to the Victorian Government's submission, offences that may be relevant to animal rights activists include:

- **Section 9** of the Act creates an offence for cruelty to an animal, including where a person wounds or worries an animal, loads, confines, drives or carries an animal in a way that causes or is likely to cause unreasonable pain or suffering; or abandoning an animal usually kept in a state of confinement. A person committing an offence under this section may be liable for a maximum penalty of \$41,305 (250 penalty units) or 12 months' imprisonment
- **Section 10** of the Act creates an offence for aggravated cruelty to an animal where a person commits an act of cruelty which results in the death or serious disablement of the animal. A person committing an offence under this section may be liable for a maximum penalty of \$82,610 (500 penalty units) or 2 years' imprisonment.

²⁰⁵ Victorian Government, *Submission 419*, p. 12.

²⁰⁶ *Ibid.*

²⁰⁷ *Crimes Act 1958 (Vic)* ss 197(1) and 76.

Many stakeholders in this Inquiry were of the view that the *Prevention of Cruelty to Animals Act 1986* does not apply to livestock. However, this is not the case. As noted in Chapter 6, any action involving livestock that is not in accordance with a code of practice and would ordinarily be an offence under the Act is liable for prosecution.

4.2.3 Surveillance and privacy offences

Surveillance Devices Act 1999

The *Surveillance Devices Act 1999* regulates the installation, use, maintenance and retrieval of surveillance devices. The offences outlined in the Act may be applicable to activists installing video, photography, listening or tracking equipment at agricultural facilities without permission or authority to do so.

According to the Victorian Government's submission, offences relevant to activist activity include:

- **Section 6** (listening devices), **section 7** (optical surveillance devices) and **section 8** (tracking devices) of the Act create an offence for improper installation, use and maintenance of these devices.²⁰⁸

The penalty for persons found guilty of the above offence is a maximum of 240 penalty units (currently \$39,653) or two years' imprisonment.²⁰⁹

The submission also notes Section 11, under which it is an offence to 'knowingly communicate or publish a record or report of a private conversation or private activity that has been made as a direct or indirect result of the use of a listening device, an optical surveillance device or a tracking device'. The penalty for this is 240 penalty units (currently \$39,653) or two years' imprisonment.²¹⁰

The Committee notes that there are circumstances under which people may claim exemption for an offence under Section 11. One such exemption (Section 11(2)(b)(ii)) is where the communication or publication of a record of a private activity made with a surveillance device is in the public interest.²¹¹

Privacy Act 1988 (Cth)

The *Privacy Act 1988* (Cth) regulates the collection, use, disclosure and storage of personal information, including by private entities. One such principle, Australian Privacy Principle 6, prescribes that an entity required to follow the privacy principles will generally use or disclose an individual's personal information only in ways the individual would expect or where an exception applies.²¹²

²⁰⁸ Victorian Government, *Submission 419*, p. 12.

²⁰⁹ *Surveillance Devices Act 1999* (Vic) ss 6(1), 7(1), 8(1).

²¹⁰ *Ibid.*, s 11.

²¹¹ *Ibid.*, s 11(b)(ii).

²¹² Office of the Australian Information Commissioner, 'Australian Privacy Principles guidelines: Chapter 6: APP 6 - Use or disclosure of personal information', 22 July 2019.

In relation to this Inquiry and the publication of the Aussie Farms Map, Aussie Farms Incorporated was incorporated under the Act on 6 April 2019. It is thus required to use personal information in a manner required by the Australian Privacy Principles.²¹³ Personal information may include an individual's address or employment details.²¹⁴

This was noted in the Victorian Government submission, which stated:

Aussie Farms Incorporated could face fines of up to \$2.1 million for offences and individuals could face fines of up to \$420,000 for contravening the Privacy Act. Under the Privacy Act, it is an offence to use or disclose personal information for a purpose other than for which it was collected (known as the 'primary purpose'), or for a secondary purpose unless an exception applies.²¹⁵

4.2.4 Biosecurity offences

Livestock Disease Control Act 1994

Biosecurity offences which may be applicable to animal rights activists are provided for under the *Livestock Disease Control Act 1994* and *Livestock Disease Control Regulations 2017*. They include offences for moving animals within 'declared' (quarantined) areas.²¹⁶ Offences may also apply for entering or exiting declared areas and moving livestock in and out of declared areas.²¹⁷ For example:

- **Section 11** of the Act creates an offence for moving animals within a declared area, or moving animals out of a declared area, without authority from an inspector. A person committing an offence under this section may attract a maximum penalty of \$9913 (or 60 penalty units).
- **Section 12** of the Act creates an offence where a person moves, exposes or undertakes other specified activities with a diseased animal. A person committing an offence under this section may be liable for a maximum penalty of \$19,826 (120 penalty units) and/or 12 months imprisonment.
- **Section 24** and **section 25** of the Act create offences for entering or exiting declared areas or moving livestock, products and feed into or out of declared areas without permission. A person committing an offence under these sections may be liable for a maximum penalty of \$59,480 (360 penalty units) and/or 36 months' imprisonment.

The Department of Jobs, Precincts and Regions notes that 'there are a number of other offences which may be triggered when a restricted area or control area has been declared...'. The submission adds that 'If an activist enters private land that is a declared

²¹³ Victorian Government, *Submission 419*, p. 13.

²¹⁴ Office of the Australian Information Commissioner, 'Australian Privacy Principles guidelines: Chapter B: Key concepts', 22 July 2019, p. 19.

²¹⁵ Victorian Government, *Submission 419*, p. 13.

²¹⁶ *Livestock Disease Control Act 1994* (Vic) s 11 and 2.

²¹⁷ *Ibid.*, ss 24 and 25.

area or transports livestock into or out of a declared area...they may be committing an offence.’²¹⁸

Biosecurity matters are dealt with in detail in section 3.3 of this report.

4.2.5 Promotion of unauthorised activities

The Committee received evidence questioning the legality of promoting unauthorised activities, particularly in relation to the Aussie Farms Map. Potential offences relating to the Aussie Farms Map fall under the jurisdiction of the Commonwealth, which passed the *Criminal Code Amendment (Agricultural Protection) Act 2019* in September 2019. The Act creates two new offences for:

1. Using a carriage service for inciting trespass on agricultural land²¹⁹
2. Using a carriage service for inciting property damage, or theft, on agricultural land.²²⁰

Agricultural land is defined in the Act as land that is used for a primary production business. It includes agricultural land where a part of the land is also used for residential purposes.²²¹

The penalty for inciting trespass is a maximum of 12 months’ imprisonment. For the offence of inciting property damage or theft, the maximum penalty is five years’ imprisonment. Neither offence applies to journalists who run a story that is in the public interest.²²²

Victorian legislation that may apply to promotion of unauthorised activist activity

In a submission to the Senate’s Legal and Constitutional Affairs Legislation Committee’s *Inquiry into the Criminal Code Amendment (Agricultural Protection) Bill 2019 [Provisions]*, the Law Council of Australia noted that section 321G of the *Crimes Act 1958* (Vic) applies to inciting an offence in Victoria. Incite is defined in the Act as to ‘command, request, propose, advise, encourage or authorise’.²²³

It is important to note that Victoria does not have mandated sentences in its judicial system. A small number of crimes attract a statutory minimum sentence, meaning that the sentence cannot be below the stated penalty. Statutory minimum sentences do not apply to any of the offences in Table 4.1. At the time of writing this report, one penalty unit is worth \$165.22.

²¹⁸ Victorian Government, *Submission 419*, p. 11.

²¹⁹ *Criminal Code Amendment (Agricultural Protection) Act 2019* (Cth) s 474.46.

²²⁰ *Ibid.*, s 474.47.

²²¹ *Ibid.*, s 473.1.

²²² *Ibid.*, s 474.47.

²²³ *Crimes Act 1958* (Vic) s 2A.

Table 4.1 Summary of offences relevant to this Inquiry

Act	Section	Penalty
<i>Summary Offences Act 1966</i>	9(1)(c): offence for wilfully damaging property valued less than \$5000.	25 penalty units or 6 months' imprisonment.
	9(1)(e)-(f): offence for wilfully entering a private place without lawful excusing or refusal to leave when asked to do so.	
	9(1)(g): offence for entering a place in a manner likely to cause a breach of the peace without lawful excuse.	
<i>Crimes Act 1958</i>	Section 76: offence for entering (trespassing within) a building with the intent to steal, assault a person or damage the building or property within the building.	1200 penalty units or 10 years' imprisonment.
	Section 197(1): offence for intentionally destroying property belonging to another person without lawful excuse.	
	Section 321G: offence to command, request, propose, advise, encourage or authorise (incite) any other person to commit an offence.	Penalty not exceeding the penalty of the relevant offence if it is fixed by law, or where it is not fixed by law a maximum of 15 years' imprisonment.
<i>Prevention of Cruelty to Animals Act 1986</i>	Section 9: offence for cruelty to an animal, including where an individual wounds, worries, loads, confines, drives or carries an animal in a way to cause unreasonable pain or suffering; abandons an animal usually kept in confinement.	250 penalty units or 12 months' imprisonment.
	Section 10: offence for aggravated cruelty to an animal where an act results in the death or serious disablement of the animal.	500 penalty units or 2 years' imprisonment.
<i>Surveillance Devices Act 1999</i>	Section 6: a person must not knowingly install, use or maintain a listening device to overhear, record, monitor or listen to private conversation to which the person is not a party, without the express consent to each part of the conversation.	240 penalty units or 2 years' imprisonment.
	Section 7: a person must not knowingly install, use or maintain an optical surveillance device to record or observe a private activity to which the person is not a party, without the express consent of each party of the activity.	
	Section 8: a person must not knowingly install, use or maintain a tracking device to determine the location of a person or an object, without express consent of the person or person in lawful possession of the object.	
<i>Privacy Act 1988 (Cth)</i>	Australian Privacy Principle 6: entities required to follow the privacy principles will not use or disclose a person's private information in any way not expected by the individual unless an exception applies.	–

Act	Section	Penalty
<i>Livestock Disease Control Act 1994</i>	Section 11: a person must not abandon, drive, or remove livestock into or out of a quarantined area; remove livestock product, fodder, or fittings, soil, sand or other material from a quarantined area.	60 penalty units.
	Section 12: a person must not expose any diseased livestock.	60 penalty units; or 120 penalty units if it is an exotic disease.
	Section 24: a person must not enter or exit any infected place or vehicle unless authorized under a permit by an inspector and complies with any conditions set out in a permit. Section 25: any movements of a vehicle, person, livestock or livestock product, fodder or fittings in or out of infected places or vehicles must only be made through points specified in a notice issued by an inspector.	360 penalty units or 36 months' imprisonment (or both).
<i>Criminal Code Amendment (Agricultural Protection) Act 2019 (Cth)</i>	Section 474.46: offence for using a carriage service for inciting trespass on agricultural land.	12 months' imprisonment.
	Section 474.47: offence for using a carriage service for inciting property damage or theft on agricultural land.	5 years' imprisonment.

Source: Economy and Infrastructure Committee.

4.3 The courts: sentencing trends for offences by animal rights activists

In Chapter 5, the Committee questions the idea of a disconnect between urban and rural communities in Victoria. However, evidence does suggest a disconnect between rural and regional Victoria and the judiciary regarding the illegal actions of animal rights activists. Many submissions to this Inquiry assert that recent decisions by the courts:

- Do not act as a deterrent to further illegal activities
- Demonstrate a lack of support for rural and farming communities
- Do not recognise the seriousness of the risks posed by illegal activities on animal agriculture businesses.

The Committee cautions here that most of the comments it received relate to one case, that being the two \$1 fines handed out following the Gippy Goat Café incident (discussed in section 1.6.2). One fine was for removing an identifying ear tag from a stolen goat with the further \$1 fine for housing livestock without a Property Identification Code. A small number of submissions also questioned the outcomes from the protests on 8 April 2019 (discussed in section 1.6.3). Although the number of cases is clearly very small, the Committee found that this issue has resonated strongly with many regional Victorians and is therefore worth including in this report.

In a submission, Janice Newnham wrote:

Judgments and penalties imposed on activists brought before the courts on charges of trespass and other charges have not met the expectations of those impacted by—or the target of—the vegan activist protests. The courts have not considered any of the breaches in terms of biosecurity, animal welfare or agricultural integrity system requirements and legislation.²²⁴

There is also a perception in the industry that sentencing is not meeting the expectations of not only regional Victoria, but the wider public as well. At a public hearing, Mr Leonard Vallance, Chairman of the Victorian Farmers Federation Livestock Group said:

... if it was a theft out of a motor vehicle on the streets outside this building that person would be charged. The charge would be recorded. They would be fined or in prison. To have a \$2 fine for stealing assets is a silly situation where the judiciary is actually detached from reality and what the community expects.²²⁵

This was reflected in numerous submissions, with individuals expressing disappointment at the approach the judiciary has taken to sentencing in this area:

- 'I have been appalled by the judiciary in the approach that they have taken to sentencing in those cases that have made it to court.'²²⁶
- 'Magistrates in our court system have played the soft approach for far too long with these criminals, with laughable penalties that do nothing but inspire and empower radical animal activists to escalate their tactics and media stunts.'²²⁷
- '... given ridiculous fines which could be interpreted as the court's support to go forth and trespass and steal.'²²⁸
- 'The lack of action taken by courts sends a clear message to activists that the courts will allow this behaviour to continue.'²²⁹

4.3.1 Judicial education

Many rural Victorians who contacted the Committee believe there is a lack of awareness among the judiciary about the impact of animal rights activism on regional businesses and communities. Ms Meg Parkinson recommended specific training for judges regarding this issue:

As for the judges, well, they need to understand the requirements and the expectation of the community, and it seems to me that some of them at least do not. That is not

²²⁴ Janice Newnham, *Submission 34*, p. 1.

²²⁵ Mr Leonard Vallance, Chairman, Victorian Farmers Federation Livestock Group, public hearing, Horsham, 18 September 2019, *Transcript of evidence*, p. 1.

²²⁶ Name Withheld, *Submission 90*, p. 1.

²²⁷ Simon Webster, *Submission 182*, p. 1.

²²⁸ Vanessa Wells, *Submission 20*, p. 1.

²²⁹ Australian Meat Industry Council, *Submission 246*, p. 7.

to say that a higher level magistrate may not notice. I understand that the courts do training for judges on various issues. I know they had training a couple of years ago on the POCTA [*Prevention of Cruelty to Animals Act 1986*], on the cruelty provisions of the POCTA. So if they have this training, there is no reason why they could not have training on this as well.²³⁰

Judicial education was also recommended by the Australian Livestock & Property Agents Association:

It is imperative that the courts also understand the serious nature of the offences and start to enforce the maximum penalties available and to record convictions so that the offenders may begin to understand the ramifications of their actions. ALPA recommends the Victorian government provide educational resources to prosecutors and judges that highlights the value of agricultural industries and the severity of biosecurity breaches.²³¹

The Committee notes that in August 2019 a petition signed by 6,559 people was tabled in the Legislative Council calling for, among other things, the Victorian Government to ‘implement stronger legal protections to appropriately penalise trespassers’, including those who steal livestock and damage property.

4.3.2 Increased penalties for trespass

Other stakeholders recommended that the Victorian Government introduce mandatory minimum sentences or on-the-spot fines as a strong deterrent to unlawful activities on Victorian agricultural businesses.²³² For example, Mr Jarad Smith stated in his submission to the Inquiry:

There must be minimum sentences introduced that will deter people from taking a chance, hoping for a lenient judge who’ll give them a slap on the wrist. This is critical not only for the protection of farmers, but for the welfare of the animals we spend our lives caring for.²³³

Another submitter, Peter Helms, recommended mandatory minimum jail terms for activist-related trespass:

They should, when convicted have an automatic criminal record and be jailed for a minimum of 6 months. The damage they can incur is profound, it takes years to develop a farming enterprise or business and these criminals can destroy that in minutes of irresponsible behaviour.²³⁴

²³⁰ Ms Meg Parkinson, public hearing, Bairnsdale, 20 August 2019, *Transcript of evidence*, p. 29.

²³¹ Australian Livestock and Property Agents Association, *Submission 390*, pp. 5-6.

²³² Victoria does not have mandatory sentencing but has statutory minimum sentences in areas such as specific types of manslaughter.

²³³ Jarad Smith, *Submission 150*, p. 1.

²³⁴ Peter Helms, *Submission 172*, p. 1.

The Australian Food Sovereignty Alliance also recommended on-the-spot fines for trespass, as well as applying a higher minimum sentence:

On the spot fines are already applicable to many offences in Victoria. The existing fines system in Victoria could therefore be utilised under the banner of the *Infringements Act 2006* (Vic). On the spot fines could be given by a police officer if the offender was able to be intercepted at the time of the offence, or sent in the mail if the offender were able to be tracked down. This would also reduce court time were the only other option prosecution of the offence. AFSA notes that the New South Wales legislature is introducing on the spot fines of \$1000 in this space [sic].

...

Further, if a minimum penalty were prescribed so that magistrates and judges were required to order a penalty that fits the crime, this would ameliorate the angst of farmers who have recently seen penalties as low as \$1 imposed for breaking biosecurity laws and good behaviour bonds for theft of livestock.

Imposing a minimum penalty for criminal trespass and theft would also signal to activists that their behaviour is viewed as seriously as any other type of trespass and theft, for example home invasion and burglary.²³⁵

While some stakeholders focused on strengthening minimum sentences, others considered if there is a need to raise maximum sentences. As an example, Ms Mel Walker from the Law Institute of Victoria stated that current penalties are appropriate and strengthening them would not affect the core motivation of animal rights activists:

So any increase in the penalty, our position would be that that necessarily would not deter the actions that are being undertaken by activists at the moment but more importantly does not assist in any further regulation or transparency of the industry itself which gives rise to the activism in the first place.²³⁶

The Committee acknowledges the concerns raised by industry stakeholders and the broader farming community about recent penalties.²³⁷ The farming community and general public should feel supported and protected by the judiciary. Instead, people in regional Victoria may feel abandoned by the courts' response to some offences committed by animal rights activists.

The Committee understands it is not for Parliament to interfere with approaches taken to sentencing by the judiciary. The Committee also admits that it did not hear all the facts involved in the Gippy Goat Café theft and is therefore not in a position to make a fully informed comment. An essential element of our justice system is an independent judicial system which promotes fair and equal consideration before the law. The Committee believes the judiciary is well equipped to engage with matters brought

²³⁵ Australian Food Sovereignty Alliance, *Submission 408*, pp. 5-6.

²³⁶ Ms Melinda Walker, Co-Chair, Criminal Law Executive Committee, Law Institute of Victoria, public hearing, Melbourne, 23 September 2019, *Transcript of evidence*, p. 20.

²³⁷ The Committee notes that in the case of the Gippy Goat Café incident the penalties were for biosecurity offences under the *Livestock Disease Control Act 1994*.

before it and to give due consideration to social expectations regarding appropriate responses to crime, in particular with regard to fairness, safety and proportionality.

Ms Nichola Donovan acknowledged the role of the courts in reflecting and responding to community norms and moral standards. Ms Donovan stated:

So there is interpretation, and this is—as you are probably aware—how law functions and how law has functioned for many years. You come up with a principle, but the law is interpreted by the courts according to current norms and morals and standards of reasonableness.²³⁸

As stated, the Committee recognises the approach taken by the courts in determining sentences. As well, as stated at the beginning of this Chapter, this is clearly not a systemic issue, rather a matter arising from a small number of incidents. The Committee simply reiterates that in the case of activist-related offences, such as the Gippy Goat Café incident, some sections of the community feel that their views are being ignored by the judiciary and that their expectations regarding sentencing are not being met.

FINDING 7: The penalties handed out following incidents of trespass and theft at the Gippy Goat Café did not meet the expectations of many stakeholders in this Inquiry and some sections of the community.

4.4 Victoria Police

The issue of Victoria Police’s response to the unlawful activity of animal rights activists on farms and related businesses was addressed by several industry stakeholders, including farmers with personal experience of trespassing. There was concern among some stakeholders that the police do not respond adequately to these offences, opting for a ‘move-along’ policy rather than arrests. Some perceived this as a tacit acceptance of activist activity that will only encourage future incidences.

In a submission to this Inquiry, one stakeholder identified ‘the absence of organised civil support, both legal in the form of laws and sentencing and operational in the form of police’.²³⁹ This was echoed by numerous other stakeholders from the agriculture sector. Examples of the type of commentary around police responses to criminal activity on farms include:

- ‘often overlooked by the police and judiciary’²⁴⁰
- ‘response from the Police should be swift and effective, as no doubt it would be should a home invasion occur’²⁴¹

²³⁸ Ms Nichola Donovan, public hearing, Melbourne, 4 September 2019, *Transcript of evidence*, p. 43.

²³⁹ Name Withheld, *Submission 90*, p. 1.

²⁴⁰ Australian Pork Limited, *Submission to the Inquiry on the Impact of Animal Rights Activism on Victorian Agriculture: Attachment 2*, supplementary evidence received 29 July 2019, p. 8.

²⁴¹ Allan Campbell, *Submission 234*, p. 1.

- ‘Victorian police and the courts already have the means to deter animal rights activists why not use those powers’²⁴²

However, most industry stakeholders stated that the police are willing to respond adequately to unauthorised activities on farms. Many argued that a lack of funding, personnel and powers impedes police responses, investigations, charges and prosecutions.

At a public hearing in Warragul, a witness told the Committee that in his opinion the work of Victoria Police is sometimes undermined by the judiciary. He said:

The police have a lot on their plate, and I made the comment before that I do not believe the laws and the courts are backing up the police ... Our main concern is always the animals, so we probably do not push it hard enough to get the results we desire because our main concern at the moment when we see this happen is the animals under our care and that they are fully catered for. So I am not as critical of the police. I feel very sympathetic towards the police because I do not believe they are getting the support. Either the laws are not strong enough or the courts are not interpreting the laws to hand out the correct punishment.²⁴³

The Victorian Farmers Federation’s Mr Vallance explained some of the challenges around policing common to rural communities:

... the VFF has been working very closely with Government to get the Premier to understand that rural policing is totally inadequate. The modern rural policeman spends most of his time dealing with drugs, domestic violence and transporting arrested individuals very long distances to jails where they can be held safely.

The town I live close to, Ouyen, has a three-member station. If they arrest someone on the Calder Highway for drugs and so forth, their entire shift is taken up transporting the prisoner to the Mildura cells because by the time they get them there, book them in and get home again, that is the entire shift gone for two officers.²⁴⁴

Darryl Bussell from Luv-a-Duck said that police took around 90 minutes to arrive in response to the protest incident at the Nhill processing facility. This was because the local (Nhill) police station was not staffed on the day and police had to travel from Horsham. Mr Bussell added that it was fortunate employees and activists did not escalate the confrontation because there would have been no immediate assistance from police.²⁴⁵ Mr Bussell also explained to the Committee how police responded to the incident:

I believe at the time that two of the activists were apprehended by the two police officers that were on site that day. I believe that they took their names, addresses et cetera. We said that we were willing to press charges on the basis of trespass and of

²⁴² Rhonda Patton, *Submission 248*, p. 1.

²⁴³ Name Withheld, public hearing, Warragul, 21 August 2019, *Transcript of evidence*, p. 9.

²⁴⁴ Mr Leonard Vallance, *Transcript of evidence*, p. 5.

²⁴⁵ Mr Daryl Bussell, CEO, Luv-a-Duck, public hearing, Horsham, 18 September 2019, *Transcript of evidence*, p. 29.

theft, and as far as I know that process is still going, but we have not heard where that is up to. None of the ducks were recovered.²⁴⁶

At a public hearing, Victoria Police's Superintendent Peter Greaney confirmed that this case is ongoing. He said:

I have asked the divisional commander in Horsham, which is Western Region, to actually provide advice to me in regard to what the situation is with that investigation. That is certainly ongoing.²⁴⁷

Another view on this issue was provided by RSPCA Victoria, which argued that better resourcing for police in regional Victoria to deal with illegal acts by animal rights activists would be a better response than introducing new penalties. RSPCA Victoria wrote:

Victoria already has criminal and biosecurity laws in place that can be applied in cases where activists illegally enter farming properties. In addition, research has demonstrated that the creation of new or harsher punishments in responding to crime does not reduce offending through the mechanism of general deterrence. Therefore, rather than responding to illegal activist activity with new or harsher criminal penalties, we believe that current laws are effective and can be enhanced through intelligence gathering and compliance monitoring, this includes supporting police with resources to enforce current laws.²⁴⁸

Responses from Victoria Police to activist-related trespass and unlawful activity

The Committee raised many of the concerns it heard from industry and other regional Victorians with Superintendent Greaney. He provided the Committee with an overview of Victoria Police's approach to animal rights activists, using the protests on 8 April 2019 in Melbourne and other parts of the state as an example:

From my perspective I can actually talk about two particular protests, one at Westside Meats in Bacchus Marsh and the other at MC Herd abattoirs in Corio, which I attended personally myself, where activists basically blockaded the entrances to those particular locations with Thrifty rented trucks and locked onto those trucks and deflated the tyres so that they could not be moved. I attended at both of those locations. We responded accordingly with regard to the number of police that were required, and we were able to actually move those activists on without any harm to themselves or to police. Obviously that takes time and negotiation.

Melbourne was a little bit more difficult in regards to the numbers of people there, and 39 arrests were made in the CBD of Melbourne. Obviously there have to be contingencies around processing those particular offenders, and they were charged with various offences around obstructing police members and obstruction to the roadways

²⁴⁶ Ibid., p. 30.

²⁴⁷ Superintendent Peter Greaney, Head of Practice for Livestock Theft and Farm Crime, Victoria Police, public hearing, Melbourne, 23 September 019, *Transcript of evidence*, p. 37.

²⁴⁸ RSPCA Victoria, *Submission 362*, p. 3.

and footpaths. Those matters are still pending at court. There were other arrests made at the Australian Food Group in Laverton, where 14 arrests were made in regard to trespass. Those matters are also before the courts. There were other arrests made, I think six, at O'Connor's abattoirs in Pakenham, where five of those offenders received diversions and one received a good behaviour bond.²⁴⁹

Superintendent Greaney advised the Committee that in his view current legislation in this area is adequate and that '... the key is to ensure that our supervisors and our police managers at these particular events know exactly what powers they have in regards to how they deal with these particular events.'²⁵⁰ He also made it clear that Victoria Police do appreciate the impact these incidents have on regional communities. He said:

... police will always respond according to what is going on, so to say that they are brushing it aside and it is not important, I do not think that is the case. Once again, every case is judged on its merits and the evidence of what is going on. I would hope and think that police would always respond accordingly in regard to what is taking place.²⁵¹

Throughout this Inquiry, the Committee also heard about work done by Victoria Police to assist farmers and businesses respond to unauthorised activity on properties. These include establishing working groups, consulting with communities, and working with industry bodies to develop responses.

The Australian Livestock Saleyards Association explained that some saleyards have engaged with local police and Agriculture Victoria to develop a coordinated response to activist-related incidents:

A number of yards have developed local policies to handle these type of events. The more active sites have engaged with their local stakeholders like the Police and Agriculture Victoria to coordinate their responses to these sort of events. The main concern is to minimise any animal welfare, OH&S and personal interaction issues on site and prevent disruption of saleyard activities. Biosecurity concerns will also be a potential issue with activists on site.²⁵²

Mr Paul Christopher, the Association's Horsham Saleyard Manager, told the Committee about the Wimmera Agriculture Sector Action Group. The Group was established by Senior Sergeant Simon Grant and includes a mix of industry and other stakeholders. The purpose of the group is to develop strategies to deal with increasing on-farm crime, including crime related to animal activism. Mr Christopher explained the Group's work to the Committee:

We are all in there, and it is about the whole ag sector—what can we do. It was brought together for farm crime more than anything, but it is about biosecurity and everything. So we all get together.²⁵³

²⁴⁹ Superintendent Peter Greaney, *Transcript of evidence*, p. 33.

²⁵⁰ *Ibid.*, p. 34.

²⁵¹ *Ibid.*

²⁵² Australian Livestock Saleyards Association, *Submission 330*, p. 1.

²⁵³ Mr Paul Christopher, Horsham Saleyard Manager, Australian Livestock Saleyard Association, public hearing, Horsham, 18 September 2019, *Transcript of evidence*, p. 20.

At a public hearing in Warragul, a witness discussed a working group established by a local police sergeant in the Baw Baw Shire:

... it was set up by our local police sergeant around the time of the activist day on the eighth [of April]. Since then I think there are about 10 businesses in the Baw Baw Shire involved in this. They are dairy farmers, pig farmers, a rabbit grower and obviously the Gippy Goat farm, but also other facilities in this area have a big impact and were also named that they were going to be targets.²⁵⁴

Mr Christopher provided an overview of advice received from Victoria Police on how farmers should respond to animal rights activists trespassing on their properties. He indicated that the Wimmera Agriculture Sector Action Group has developed a document containing advice that farmers should follow during an incident. The advice includes:

- Take footage of the event
- Call 000
- Ask activists to leave.²⁵⁵

A short time before the writing of this report, the Victorian Government announced the establishment of a Farm Crime Coordination Unit. A media release from the Honourable Lisa Neville, Minister for Police and Emergency Services and Minister for Water stated:

The unit will be led by Inspector Karl Curran, who will oversee a team of more than 70 new Farm Crime Liaison Officers, previously known as Agricultural Liaison Officers (ALGOs) and additional administrative and coordination support.

The team will strengthen the work already undertaken by ALGOs by providing a dedicated response to target farm crime by monitoring crime trends and patterns, developing intelligence and working with local police to proactively and reactively address issues.

The unit will also work closely with and provide advice to Victoria's farming and agricultural community, and provide intelligence and operational advice to Victoria Police command.²⁵⁶

Superintendent Greaney said that there were no additional personnel attached to the announcement. He said: 'No, there are not 70 additional there. So, the 70, or actually the 71 agricultural liaison officers already exist and obviously are now being called crime liaison officers.'²⁵⁷

²⁵⁴ Name Withheld, *Transcript of evidence*, pp. 38-9.

²⁵⁵ Mr Paul Christopher, *Transcript of evidence*, p. 20.

²⁵⁶ Hon Lisa Neville MP, Minister for Water & Minister for Police and Emergency Services, *Dedicated Police Unit to Target Farm Crime* media release, Victorian Government, Victoria, 23 September 2019.

²⁵⁷ Superintendent Peter Greaney, *Transcript of evidence*, p. 36.

The Committee commends Victoria Police for working with farmers and businesses in establishing strategies to appropriately deal with unauthorised activist-related activity on Victorian farms and related businesses. It also commends the work of its officers in handling recent protests, including incidents of trespass. In the Committee's view, Victoria Police should be provided with adequate support, resources and funding to deal with all on-farm crime, including offences not related to animal rights activism.

4.5 Responses to activist activity in other jurisdictions

4.5.1 Commonwealth

In response to the publication of the Aussie Farms Map, the Commonwealth Government amended the *Privacy Act 1988* (Cth) and related regulations. Aussie Farms Incorporated is now a prescribed organisation under the Act, meaning that it is required to abide by the Act's provisions, including regulations around handling personal information.²⁵⁸

In September 2019, the *Criminal Code Amendment (Agricultural Protection) Act 2019* (Cth) was passed by the Commonwealth.²⁵⁹ The stated purpose of the Act is to protect farmers from bodies that disseminate information inciting others to trespass or damage property on agricultural land. The Act includes offences related to the use of carriage services to incite trespass or property damage on agricultural land, or to damage, destroy or steal property on agricultural land.²⁶⁰

Further, on 18 November 2019 the Australian Charities and Not-for-profits Commission revoked Aussie Farms' charity status.

4.5.2 New South Wales

In 2019, the New South Wales State Government introduced changes to regulations made under its *Biosecurity Act 2015* (NSW). People entering an area where a biosecurity management plan applies must now comply with the measures outlined in the plan.²⁶¹ Those who do not comply with the plan may be liable for an on-the-spot fine of \$1000 or a court ordered fine of \$220,000 for individuals or \$440,000 for corporations.²⁶²

Having a biosecurity management plan is voluntary for farmers and others in the agricultural sector, but where one is in operation it is a legal requirement to obey the measures outlined in the plan. Businesses must ensure they have signs at the

²⁵⁸ Victorian Government, *Submission 419*, p. 14.

²⁵⁹ Parliament of Australia, *Journals of the Senate*, no. 15, 2019, p. 457.

²⁶⁰ Victorian Government, *Submission 419*, p. 14.

²⁶¹ New South Wales Government, *Department of Primary Industries: Biosecurity Management Plan*, N.D., <<https://www.dpi.nsw.gov.au/biosecurity/your-role-in-biosecurity/primary-producers/biosecurity-management-plan>> accessed 7 October 2019.

²⁶² *Ibid.*

entrances to areas where the plan applies that advise that a plan is in place and that it is an offence not to comply with the plan. Throughout 2019, the New South Wales Government provided guidance on how to make a biosecurity management plan along with free signs.

The plans must contain reasonable measures to minimise the risk of a biosecurity breach. Business owners and workers, as well as all visitors, must comply with the measures in the plan. The plans can apply to part or all of a property.

The New South Wales Government also passed the *Right to Farm Act 2019* (NSW) in November 2019. In his second reading speech, the Honourable Adam Marshall, Minister for Agriculture (NSW), explained the Government's motivation for introducing the Bill:

Since 2014, according to the Bureau of Crime Statistics and Research, there has been a 27 per cent increase in the number of recorded incidents of trespass on farms and rural properties. The tactics of animal rights groups who trespass on farms are becoming more organised and more aggressive, including illegally installing recording devices, conducting mass on-farm protests, illegally removing stock, and collecting and publishing farm locations and data.²⁶³

The purposes of the Act include:

- Extend circumstances of aggravation for offences of trespassing on 'inclosed lands without permission or failing to leave inclosed lands when requested'
- Increase the maximum penalty for an offence which occurs on agricultural land to \$13,200 for 12 months' imprisonment for an individual, or \$22,000 or three years' imprisonment for groups of three or more
- Create an offence for directing, inciting, counselling, procuring, commissioning or inducing the commission of an offence on agricultural land with a maximum penalty of \$11,000 or 12 months' imprisonment or both
- Amend the meaning of gate to include a cattle grid or moveable thing used to inclose land
- Introduce protection for commercial agricultural activities occurring on agricultural land when an action of nuisance is made.²⁶⁴

4.5.3 Queensland

Information provided by the Department of Agriculture and Fisheries (Qld) to the Committee revealed that activist-related activity has been a concern, particularly since December 2018. Activists have protested at various agricultural businesses around Queensland, such as abattoirs, feedlots and livestock farms. The Department described

²⁶³ New South Wales, Legislative Assembly, 17 September 2019, *Parliamentary debates*, p. 2.

²⁶⁴ Right to Farm Bill 2019 (NSW) cl 1.

various types of behaviours from activists during these events, ranging from small gatherings to trespass involving property damage and theft.²⁶⁵

During the 8 April 2019 protests, Queensland animal rights activists chained themselves to equipment inside a Yangan abattoir. Queensland Police did not arrest any of the activists at the time. Instead, negotiations resulting in the removal of three sheep were used to end the protest. However, in the week following the incident 11 activists across Queensland were charged with trespassing, some linked to the Yangan protest.²⁶⁶

In April 2019, the Queensland Government increased trespassing penalties for individuals who trespass onto farms or abattoirs where a biosecurity management plan is in place and clearly visible.²⁶⁷ In its submission to this Inquiry, the Department of Agriculture and Fisheries (Qld) explained the new offence provision introduced under the *Biosecurity Regulation 2016* (Qld):

While the Queensland legislative provisions dealing with the criminal aspects of trespass are well established, the legislative provisions concerning the biosecurity aspects of trespass were not so clear. Activities at places where animals are kept can pose a serious biosecurity risk, especially in relation to the spread of animal diseases. Given this, in April 2019 a new offence provision was included in the Queensland *Biosecurity Regulation 2016* requiring a person to comply with a biosecurity management plan (BMP) at particular agricultural places. A maximum of 20 penalty units was applied to the offence and it was also prescribed as an infringement notice offence of five penalty units.

...

To ensure the new offence can be applied to a property, a property owner must have a BMP, have it available for inspection during recognised business hours and have signs at entries to management areas to explain the property is subject to a BMP.

A person entering a property with BMP must comply with the requirements of the plan unless they have a reasonable excuse. Examples of a reasonable excuse include paramedics needing to enter the property for a medical emergency or an energy company needing to fix some infrastructure.²⁶⁸

As well as the new offence provision outlined above, Queensland has established a joint taskforce involving agricultural industry representatives and the Queensland Police. The taskforce focuses on the risks of animal rights activism to Queensland agriculture and facilitates information-sharing across law enforcement and industry bodies. According to the Department's submission, the primary objective is the '... preservation of safety of all persons, public order, the avoidance of disruption to farm enterprises

²⁶⁵ Department of Agriculture and Fisheries (Qld), *Submission 70*, p. 2.

²⁶⁶ Michael Rennie, 'Animal activists charged over protests at Yangan abattoir and Millmerran feedlot', *ABC News*, 17 April 2019, <<https://www.abc.net.au/news/2019-04-17/animal-activists-charged-over-millmerran-yangan-protest/11023422>> accessed 11 October 2019.

²⁶⁷ *Ibid.*

²⁶⁸ Department of Agriculture and Fisheries (Qld), *Submission 70*, p. 2.

and the minimisation of biosecurity and food safety risks.²⁶⁹ The taskforce is also responsible for delivering advice and information to farmers and related industries, to help de-escalate incidents, maintain safety, and strengthen biosecurity risk management.²⁷⁰

Further, the Queensland Police's Rural Major Organised Crime Squad investigates breaches of legislation and potential offences across the State through working with local police to ensure responses are coordinated and effective. The Squad also engages with land owners, providing advice on protection and education regarding farm trespass and related offences.²⁷¹

4.5.4 Western Australia

There have been several recent incidents of animal rights activists engaging in unlawful activity on agriculture properties in Western Australia. In February 2019, animal rights activists trespassed onto a Pinjarra piggery and livestreamed footage taken inside the facility. The activists accused the piggery of animal cruelty and the livestream was hosted by the Direct Action Everywhere Facebook page. The footage lasted approximately 90 minutes. Activists involved pleaded guilty to charges related to trespass and possession of a controlled weapon.²⁷² The activists received fines totalling \$13,500.²⁷³

Western Australia is reviewing its current trespass laws to include a new offence for 'aggravated trespass'. A submission provided by the Honourable Alannah MacTiernan, Minister for Regional Development; Agriculture and Food; Ports, explained the proposal:

In order to better address the issue, the WA government is in the process of developing amendments to legislation by introducing circumstances of aggravation for the criminal offence of trespass. The proposal is a targeted response aimed at better protecting the agricultural industry from unlawful interference.

The key change will be the introduction of aggravated circumstances for the offence of trespass, to apply where the offender interferes with agricultural production while trespassing. The maximum penalty for aggravated trespass will be a fine of \$24,000 and imprisonment for two years, double the usual maximum penalty for trespass.

In addition to any other penalty imposed, and subject to a limited judicial discretion, a person who commits aggravated trespass will be made subject to a community based order containing conditions aimed at preventing further offending. The community-based order also avoids exclusive reliance on monetary penalties which

²⁶⁹ Ibid., p. 3.

²⁷⁰ Ibid.

²⁷¹ Ibid.

²⁷² Carla Hildebrandt, 'WA vegan activist fined for trespassing, carrying pepper spray', *WAtoday*, 22 March 2019, <<https://www.watoday.com.au/national/western-australia/wa-vegan-activist-fined-for-trespassing-carrying-pepper-spray-20190322-p516ne.html>> accessed 11 October 2019.

²⁷³ Hon Alannah MacTiernan, Minister for Regional Development; Agriculture and Food; Ports, Government of Western Australia, *Submission 149*, p. 1.

can be met through crowd funding. The Government's reform package will also include amendments to the *Restraining Orders Act 1997* (WA) making it easier for agricultural landholders to seek the protection of a misconduct restraining order where appropriate.²⁷⁴

Police Minister Michelle Roberts has proposed that livestreaming a trespass be considered an aggravating factor under trespass offences.²⁷⁵

The Western Australia Police Force has also established a taskforce to address this issue, including educating industry on its legal rights and appropriate responses to illegal activity.

4.5.5 International responses

United Kingdom

During the 1990s and early 2000s, the United Kingdom introduced legislation addressing unlawful activities by animal rights activists. The purpose of the reforms was to allow police and other bodies to manage activities considered 'domestic extremism', such as unlawfully targeting research organisations, live export businesses, universities or farms involved in animal agriculture or animal use.²⁷⁶

Some of the changes were:

- Introducing offences under the *Serious Organised Crime and Police Act 2001* for demonstrating outside a personal residence in a manner which harasses, alarms or distresses
- Reducing the threshold test for employee harassment under the *Harassment Act 1997*
- Amendments to the *Anti-social Behaviour Act 2003* and *Police Reform Act 2002* to expand trespass in buildings to a criminal offence and reductions in the required number of protestors to trigger police powers.²⁷⁷

The United Kingdom also established dedicated policing units that target animal activist crimes.²⁷⁸

274 Ibid., p. 2.

275 Gary Adshead, 'Anti-farming protesters to face tougher penalties in WA', *The West Australian*, 9 April 2019, <<https://thewest.com.au/politics/law-and-order/anti-farming-protesters-to-face-tougher-penalties-in-wa-ng-b88116155z>> accessed 11 October 2019.

276 Victorian Government, *Submission 419*, p. 15.

277 Ibid.

278 Ibid.

United States of America

In 1992, the United States introduced the *Animal Enterprise Terrorism Act 1992* as a response to increasing activist campaigns against the fur industry. The Act was used in 1998 to prosecute activists who removed and released thousands of minks and foxes from farms.²⁷⁹

The Act was broadened in 2006 to:

- Outlaw activities which damaged or interfered with the operations of animal enterprises
- Prevent a person from causing another to reasonably fear for their safety
- Criminalise conspiracies related to either of these things.²⁸⁰

Furthermore, protections were expanded to any individual or entity connected to an animal enterprise.²⁸¹ In addition to federal reforms, over 20 states have introduced offences for whistleblowers or activists obtaining unauthorised footage inside animal agriculture businesses.

See also the discussion on ‘ag-gag’ laws in section 1.9 of this report.

4.6 The Committee’s view

The Committee believes that trespass onto private property, no matter the intentions of those committing the acts, is against the law and cannot be justified. The harm, both psychological and economic, these acts have caused business owners and workers in the Victorian animal agriculture sector has been made clear to the Committee. These acts of trespass also threaten the biosecurity of Victorian farms.

As outlined in section 4.2, significant penalties already exist for anyone trespassing on farms and other agricultural facilities. However, the Committee considers that given the impact such incidents have on farmers, the threats to the biosecurity of farms and to the health and safety of those involved, there should be a robust response to trespass on agricultural land.

The Committee believes that a robust and targeted response is required to the biosecurity threat posed by animal rights activists in particular and specifically to their trespass onto farms. In Chapter 3, the Committee recommended new biosecurity management plan non-compliance penalties that the Committee strongly believes must apply to everyone who enters an animal agriculture business. These non-compliance penalties would be a targeted response to biosecurity threats created by animal rights activists and all others entering animal agriculture businesses with or without permission.

²⁷⁹ Ibid., p. 16.

²⁸⁰ Ibid.

²⁸¹ Ibid.

Beyond biosecurity non-compliance penalties, robust farm trespass laws will continue to be a key response. Although jurisdictions across Australia have announced recent increases to farm trespass laws, it is important to understand that this includes several states raising their penalties to match Victoria's significant existing penalties. For example, the maximum penalty for an offence under s 76 of the *Crimes Act 1958*²⁸² is 1200 penalty units (\$198,264) or 10 years' imprisonment. The Committee also notes recent changes by the Commonwealth regarding legislation relating to incitement.

Overall, these changes have seen the breadth of penalty levels narrow to a range around Victoria's existing penalties. However, the process did not happen in a nationally consistent manner and inconsistent penalties remain across Australia. The Committee believes this work would be better facilitated at a national level through the Commonwealth, to ensure a consistent and proportionate response is applied nationally.

²⁸² Section 76 creates an offence for entering (trespassing within) a building with the intent to steal, assault a person or damage the building or property within the building.

5 The motivations of animal rights activists

5.1 Introduction

This Chapter examines the motivations underpinning the actions of animal rights activists. The Chapter identifies the different issues associated with activists' approaches to legal and illegal practices and finds that a lack of knowledge of animal welfare practices and related legislation is a bigger driver of community attitudes than an urban-rural disconnect.

The Chapter considers the issues of transparency in the animal agriculture sector and the aim of activists to use information to change public behaviour and industry practices through market pressure. This includes proposing alternatives to a meat-based diet and challenging industry's 'social licence' to operate.

5.2 Standard industry practices

A key motivation of many animal rights activists is to increase public awareness of industry practices which are legal but which activists contend are cruel (this is in addition to exposing illegal acts of cruelty). These activists believe that the public will disapprove of these practices once it becomes informed of them and force the industry to change. Other activists go further in believing that social change will result in the animal agriculture industry being wholly replaced by plant-based farming.

5.2.1 Transparency

The Committee heard that a perceived lack of transparency in the animal agriculture industry is a major motivation of animal rights activists. Activists told the Committee they see an industry that operates under a 'veil of secrecy', misrepresenting what animals experience, which they believe involves inhumane treatment, suffering and cruelty.

Animal Liberation argued that as the industry becomes increasingly industrialised, the public is becoming less aware of its conduct and practices:

... the need for access to such information is actually *amplified* [emphasis in original] by the recognition that, within several short generations, the agricultural industry as a whole and in general has become increasingly industrialised. As a result, consumers have become "farther removed from the sources of their food". In toto, the increasing

industrialisation of the food industry has led to a renewed fascination with or interest in the process, perhaps borne of either a yearning for tradition or a broader sense of disconnection with the system itself.²⁸³

Many activists argued that the use of unlawfully obtained footage is the only way of providing transparency to consumers and increasing public awareness. For example, Ruth Abbey wrote:

That animal advocates have to resort to direct action and potentially illegal means is a reflection on these industries' lack of transparency, not on the advocates' motivations. Their goal is not to break the law or cause harm for its own sake; their goal is to disseminate knowledge about the hidden suffering of animals in the food industries to consumers of these industries' products.²⁸⁴

Animal Liberation stated in its submission that activists' investigations are the only 'viable' method of educating the public about increasingly industrialised modern agricultural systems:

... private welfare investigations have often proved to be the only sources capable under the current regulatory regime to coherently provide consumers with a degree of otherwise unobtainable transparency. Further, these refer to matters of significant public interest to all Australians. That is, for many average consumers, these materials represent the only reliable avenues via which they may gain access to information of this kind.²⁸⁵

Mr Chris Delforce from Aussie Farms told the Committee increased transparency would lessen the need for activists to trespass onto agricultural businesses:

I think that myself and others will continue to do this work as long as there is a need that is not being fulfilled—as long as there is not transparency. If there were to be transparency, if it was public knowledge what was happening in these places, then I would not feel any need for myself—I do not think anyone else would feel any need—to go onto these facilities and try to capture and expose that, because they would be exposing something that is already out there in the public domain, already in public awareness.²⁸⁶

While the Committee appreciates concerns about a perceived lack of transparency, it does not agree that this allows animal rights activists to engage in unlawful activity. The Committee accepts the examples given by animal rights activists of where surveillance footage has revealed wrongdoing, albeit with the important caveat that it is not known how much illegally taken footage is not made public because the footage does not reveal acts of cruelty.

Further, several industry stakeholders in this Inquiry explained ways in which they work with animal welfare advocates to improve their practices. For example,

²⁸³ Animal Liberation, *Submission 312*, pp. 8-9.

²⁸⁴ Ruth Abbey, *Submission 127*, p. 1.

²⁸⁵ Animal Liberation, *Submission 312*, p. 8.

²⁸⁶ Mr Chris Delforce, Executive Director, Aussie Farms, public hearing, Melbourne, 4 September 2019, *Transcript of evidence*, p. 12.

Mr Mark Wootton from Jigsaw Farms told the Committee that he was willing to engage with activists on his farm and has in fact allowed a number of activists onto his property to ‘look around’ and learn about how he runs his business. However, for reasons of safety, privacy and biosecurity, Mr Wootton stressed that visits can only happen ‘under our terms’:

In terms of transparency we have a lot of tours: farm tours, Landcare groups, agricultural groups, city-based, RMIT and NMIT—we have had a lot of ag students go through. We have had over 15 000 visitors or tourists go through our place under our terms since 1996, so it is not like we are not a transparent or open organisation. We are very happy on that level to have people come through, but we like to know who is coming and when they are coming and under what conditions.²⁸⁷

The use of CCTV in agriculture businesses is discussed in section 6.7.

5.2.2 Examples of standard practices

Activists provided the Committee with examples of lawful farming practices they believe constitute cruelty:

- The use of gas chambers in the pig industry
- Maceration of live male chicks in the egg industry
- Killing male calves in the dairy industry
- Practices such as debeaking, mulesing, tail docking and surgical procedures carried out without anaesthetic or pain relief.

Mr Delforce stated that ‘cruelty is the legal standard’ in the animal agriculture industry.²⁸⁸ He also argued that many practices would be unlawful under the *Prevention of Cruelty to Animals Act 1986* if done to domestic animals, such as dogs or cats:

Livestock animals have essentially no protection under Victoria’s animal welfare laws. What would earn jail time if done to dogs or cats is entirely legal and considered standard industry practice when done to pigs, chickens, turkeys, ducks, sheep, goats and fish.²⁸⁹

Many stakeholders agreed that standard industry practices would receive widespread condemnation if applied to companion animals, such as dogs and cats.²⁹⁰ Other activist stakeholders referenced the codes of practice used by animal agriculture businesses as the reason cruel practices were lawful when used in livestock production but not with domestic animals. For more information on the role of codes of practice in the animal agriculture industry and the *Prevention of Cruelty to Animals Act 1986* refer to Chapter 6 of this report.

²⁸⁷ Mr Mark Wootton, Jigsaw Farm, public hearing, Horsham, 18 September 2019, *Transcript of evidence*, p. 17.

²⁸⁸ Mr Chris Delforce, *Transcript of evidence*, p. 11.

²⁸⁹ *Ibid.*, p. 9.

²⁹⁰ For example see: Cori Nelson, *Submission 289*, p. 1.; Justine Curatolo, *Submission 75*, p. 3.

The Committee also spoke with Professor Paul Hemsworth from the University of Melbourne's Animal Welfare Science Centre. When asked if there were systemic issues around animal welfare with agricultural animals in Australia he replied:

No. I do not think there is anything inherently wrong with intensive animal production. At the end of the day, I think it is more about the design of the system that they are in and how well they are managed.²⁹¹

The Committee received a variety of views on how practices in the industry change over time. Ms Meg Parkinson, an egg producer in Gippsland, argued that the market should be left to determine standard practices. She said:

There is market choice, which is much more effective. It is a lot cheaper for Government. And it is what people want. The egg industry has adapted to what the market wants, and it will continue to do so. That is the way it should be. It is not a matter of being threatened or feeling frightened.

Ms Jan Kendall identified a need to strengthen animal welfare standards in the industry along with stricter monitoring of those standards:

I would like those industries to be monitored for animal welfare compliance with the standards, such as they are, but before that the Government needs to regulate so that the standards improve animal welfare. At the moment all sorts of mutilations—I have seen all sorts of mutilations with my own eyes growing up on a dairy farm. I know what goes on.²⁹²

In contrast, the Animal Law Institute believed current industry standards are adequate in ensuring humane treatment. Instead, there is an issue with the enforcement of standards in the industry:

There are laws in place which should, if enforced, maintain a level of humane treatment of animals in these facilities. It has become obvious that these laws are grossly ineffectual, primarily due to inadequate monitoring and enforcement of standards.²⁹³

Ms Pam Ahern from Edgar's Mission expressed a similar view, stating:

There are standards and guidelines. Guidelines are very poor and often unenforced, which leaves this industry to basically be self-regulated, which causes lots of problems, as we are seeing.²⁹⁴

Ms Mhairi Roberts, Animal Welfare Policy Manager at RSPCA Victoria told the Committee that the RSPCA would support a review of animal welfare standards

²⁹¹ Professor Paul Hemsworth, Animal Welfare Science Centre, The University of Melbourne, public hearing, Melbourne, 23 September 2019, *Transcript of evidence*, p. 27.

²⁹² Ms Jan Kendall, public hearing, Melbourne, 4 September 2019, *Transcript of evidence*, pp. 18-9.

²⁹³ The Animal Law Institute, *Submission 301*, p. 3.

²⁹⁴ Ms Pam Ahern, Director, Edgar's Mission, public hearing, Melbourne, 4 September 2019, *Transcript of evidence*, p. 31.

in Victoria.²⁹⁵ This was also recommended by Vegan Rising, who added that practices deemed to cause pain, fear or suffering should be banned.²⁹⁶

Ms Sally Fensling, Executive Director, Animal Welfare Victoria and Executive Director, Agriculture Regulatory Policy at Agriculture Victoria explained to the Committee that Victoria's *Animal Welfare Action Plan* includes a commitment to review codes of practice, in particular which should be made mandatory, as part of the modernisation of the *Prevention of Cruelty to Animals Act 1986*.²⁹⁷

As discussed in Chapter 6, the Committee supports a review of the *Prevention of Cruelty to Animals Act 1986*. That chapter considers calls to establish national uniform guidelines for animal welfare in the agriculture industry and establishing a national independent office to formulate the guidelines.

5.2.3 Community awareness of animal welfare: influencing market choices

The Committee's discussion with activists around community awareness also considered issues such as social values and behaviours. It heard that some activists, either through setting an example they believe could be followed or by providing more information on the animal agriculture industry, are allowing the public to 'properly' reflect on its choices and beliefs. Such reflection, it is believed, would inevitably result in humans rejecting a meat-based diet.

Ms Ahern contended that values are often inherited without being questioned. She hoped that through her activist work she could 'inspire' and 'inform' people about the choices they make and to think about 'what is important to them'.²⁹⁸

Others identified a need for what they would consider more accurate information about animal products, especially in marketing. Associate Professor Carrie Freeman stated that inaccurate labelling on animal products is misleading consumers and that 'truth in labelling' would inform consumers about animals' quality of life during the processing cycle. Associate Professor Freeman told the Committee:

I think there is just a lot of confusion out there, and a lot of times the companies are allowed to just throw out words like 'humane' or 'welfare' without really giving a firm backing behind that, so customers are thinking, 'Oh, I'm picturing hens that are running around in a field', and they are not even envisaging them ever being killed, when in actuality that is not what is happening. So that is part that seems fraudulent to me, especially if the images and the words on the labelling mislead people about the

²⁹⁵ Ms Mhairi Roberts, Animal Welfare Policy Manager, RSPCA Victoria, public hearing, Melbourne, 4 September 2019, *Transcript of evidence*, p. 49.

²⁹⁶ Vegan Rising, *Submission 482*, p. 7.

²⁹⁷ Ms Sally Fensling, Executive Director, Animal Welfare Victoria, and Agriculture Regulatory Policy, Agriculture Victoria, public hearing, Melbourne, 23 September 2019, *Transcript of evidence*, p. 7.

²⁹⁸ Ms Pam Ahern, *Transcript of evidence*, pp. 31-2.

reality—the harsh reality, because it has be harsh to mass-produce animals in a global consumer market.²⁹⁹

Associate Professor Freeman also discussed ways in which the media shapes public opinion and expectations. Activists seek media attention to prompt a public discussion on animal welfare standards. According to Associate Professor Freeman this discussion could make people:

... reframe and re-evaluate what [their] values are—prioritise [their] values in society—then [they] will kind of get together and naturally start changing [their] shopping habits and start pressuring [their] political leaders to make these changes.³⁰⁰

The Committee heard about previously successful campaigns by animal rights activists that changed public opinion. Ms Danielle May discussed how public concern about animal welfare prompted major supermarkets to increase the standards they require their suppliers to meet. These market-based incentives could improve welfare outcomes. According to Ms May:

In response to increased scrutiny by the public, the corporate sector is now demanding higher welfare animal products. The majority of major supermarkets and fast food restaurants in Australia have committed to eliminating products produced using cruel practices such as battery cages and sow stalls.

Such examples illustrate how corporate Australia is changing based upon the evolving expectations of consumers.³⁰¹

Animal welfare standards in industry quality assurance programs are discussed in section 6.5.

In a submission, Susie Header suggested government has a role in assisting farmers to meet community expectations:

Farmers are a vital part of the community and we depend on them to feed our nation and contribute to our export market but they also need to be sustainable and government should be helping them to transition to more sustainable methods of farming and to methods that don't involve cruelty to animals or destruction to our environment. Industries need to change with the times and keep up with community expectations and science.³⁰²

The Committee also learnt that a perceived misalignment between industry practices and social expectations can harm confidence in the industry. For example, a 2016 Productivity Commission report *Regulation of Australian Agriculture*, which

²⁹⁹ Associate Professor Carrie Freeman, via teleconference, public hearing, Melbourne, 4 September 2019, *Transcript of evidence*, p. 6. In October, ice cream company Ben & Jerry's was taken to court over claims its milk and cream are sourced from 'happy cows'. See: <https://www.smh.com.au/business/companies/ice-cream-maker-ben-and-jerry-s-sued-over-happy-cows-20191109-p53904.html>; accessed 10 November 2019.

³⁰⁰ *Ibid.*, p. 4.

³⁰¹ Danielle May, *Submission 490*, p. 9.

³⁰² Susie Header, *Submission 464*, p. 5.

was referenced by numerous stakeholders in this Inquiry, used product labelling in the egg industry as an example of industry reality not aligning with consumer expectations:

The production method used for eggs labelled as ‘free-range’ do not always align with consumers’ expectations (or understanding) of those methods, and consumers lack confidence that they are getting what they are paying for.³⁰³

A more recent report, *Australia’s Shifting Mindset on Farm Animal Welfare* (2018), argues that when trust in the industry declines the risk increases that consumers will demand a ‘blanket regulation or ban, rather than call for issue specific regulation’.³⁰⁴ The report recommended the industry engage the following mitigation strategies to address trust:

- Acknowledge past failures and contemporary challenges
- Acknowledge issues with public trust
- Release candid information
- Involve a variety of key stakeholders in decision-making.³⁰⁵

5.2.4 The scale and nature of the industry

Many stakeholders told the Committee that large scale operations and facilities are the primary targets of activists. There was a perception among these stakeholders that the size of these facilities makes animal welfare standards extremely difficult to uphold.³⁰⁶ For example, Tarni Elder wrote:

I understand that farmers are good people, earning a living and contributing to the economy. However, in factory farming (or large) animal processing facilities, there have been many instances of outright cruelty, as on a large scale, these outcomes cannot be properly overseen or managed in an effective way.³⁰⁷

Of particular concern for activists is the scale of some poultry operations, where thousands of birds are housed in the same structure.³⁰⁸

Some activists included statistics on the scale of animal agriculture production and processing in their evidence to this Inquiry. For example, in his submission Paul Mahony compiled statistics on the number of animals slaughtered in 2017 by using UN Food & Agriculture Organization data.

³⁰³ Productivity Commission, *Regulation of Australian Agriculture*, Report no. 79, Canberra 2016, p. 29.

³⁰⁴ Futureye, *Australia’s Shifting Mindset on Farm Animal Welfare*, report for Department of Agriculture and Water Resources (Cth), 2018, p. 13.

³⁰⁵ *Ibid.*, p. 17.

³⁰⁶ Michael Fuery, *Submission 287*, p. 5.

³⁰⁷ Tarni Elder, *Submission 310*, p. 1.

³⁰⁸ For example see Julie McHenry, *Submission 44*.

One reason activists refer to large-scale businesses is to refute the accusation that they are trespassing on farmers' homes. Activists argue this is not the case and point to a distinction between residential and business properties.³⁰⁹

Aussie Farms stated in its submission that the interactive map published on its website enables consumers to gauge the scale of the animal agriculture industry:

This [map] resource allows consumers for the first time to see the scale of industrial animal farming on both the micro and macro levels, grounding in reality the previously somewhat mythical concepts of factory farms and slaughterhouses. For many Australians, even this satellite imagery depicting a typical farm with numerous enormous sheds, or barren feedlots with tens of thousands of cattle, is a shock compared to the 'Old Macdonald' style farm presented by the industry and reinforced throughout their childhood.³¹⁰

This was restated by Mr Delforce at a public hearing. He argued that most people are unaware of what 'modern animal agriculture actually looks like and how this idea of the small family farmer is not really relevant anymore.'³¹¹ However, the Committee met several farmers who operate small, family-run farms that have been targeted by animal activists. Ms Danyel Cucinotta from LT's Egg Farm, a third-generation farmer, told the Committee that her farm is a family business that employs five family members and over 30 staff from the local community.³¹² Ms Cucinotta revealed her family's experiences with animal activism:

We have been personally affected by animal activism, and our farm has been targeted on numerous occasions. Not one of them has been held accountable for their actions, which in turn means that they feel protected to repeat the illegal activities of invading farms and destroying our property.³¹³

This issue is discussed further in section 3.2.3.

5.3 Animal agriculture's social licence: right to farm

The Committee discussed the animal agriculture industry's social licence³¹⁴ with various industry stakeholders, including farmers. Some expressed concern that accusations of a lack of transparency or poor animal welfare standards may affect their ability to continue farming. A number of industry stakeholders believed maintaining this social licence is crucial for the economic and social viability of the industry.

At a public hearing, Mr Bernie Free from the United Dairyfarmers of Victoria Wannon Branch told the Committee:

³⁰⁹ Mr Chris Delforce, *Transcript of evidence*, pp. 13-4.

³¹⁰ Aussie Farms, *Submission 395*, p. 395.

³¹¹ Mr Chris Delforce, *Transcript of evidence*, p. 12.

³¹² Ms Danyel Cucinotta, LT's Egg Farm, public hearing, Warrnambool, 17 September 2019, *Transcript of evidence*, p. 20.

³¹³ *Ibid.*

³¹⁴ The term 'social licence', sometimes called the 'social license to operate', refers to the continued and lasting acceptance of an industry's standard practices and operations by employees, stakeholders and the general public.

Right or social licence to farm: historically, ever since the dawn of history, man has domesticated and kept animals for food and fibre. Herding developed about 10 000 years ago as prehistoric hunters domesticated sheep, goats, cattle, pigs and dogs. The animals gained protection from the wild animals and secured a better surety of food because of the herding from one fertile grassland to the next. So both humans and animals coexist to the benefit of both.

Contemporary social licence: as long as people buy meat to eat; buy wool garments; buy leather upholstered products; buy milk, milk products, eggs, beef, bacon, chicken, pork, ham and countless other items from animals, then farmers have a social licence to operate, provided they care for these animals, which of course they do so as to avoid detriment to their business.³¹⁵

The 2012 report *Victorians' Attitudes to Farming* examined the challenges to agriculture's 'social authorisation' (social licence) caused by a 'crisis of trust' within the general public.³¹⁶ It found that social authorisation is at most risk when individuals act because of a perceived unwillingness of the industry to engage in discussion or reform. The report stated:

Social authorisation issues stem from a mismatch between current practices and current public expectations and perceptions. Underpinning public concerns there may be a mixture of understanding and legitimate criticism. Agricultural industries need to not simply assume any criticism of their practices is illegitimate or unfounded, and to evaluate their practices openly and honestly.³¹⁷

The report concluded that any unwillingness of the industry to engage in transparent discussion and reform when needed creates a space for more radical social segments (e.g. animal rights activists) to capture public support:

The alternative to such active investment would seem to be to permit public concerns to persist to the point that 'extreme' lobby groups find purchase and finally force change among those producers wedded to established but socially unacceptable practices. It is in the interests of Victorian agriculture to search actively for and promote the adopting of farming practices that have widespread public support.³¹⁸

However, the Committee heard evidence that the industry is already subject to a large amount of oversight. For example, Mr Gommans told the Committee:

... we are monitored by DPI, Dairy Food Safety Victoria, Agriculture Victoria, the EPA, the RSPCA and the local shire, which is Baw Baw. The standards that are applied to the livestock industry by these authorities are available to the public for scrutiny and input. These standards that these authorities operate under were developed in front of and with consultation with the public and appropriate qualified people. Those standards are regularly updated as expectations and farming technology changes.³¹⁹

³¹⁵ Mr Bernie Free, Member, Wannon Branch, United Dairyfarmers of Victoria, public hearing, Warrnambool, 17 September 2019, *Transcript of evidence*, p. 28.

³¹⁶ Peter Parbery and Roger Wilkinson, *Victorian's attitudes to farming*, Department of Primary Industries, Victoria, 2012, p. 1.

³¹⁷ *Ibid.*, p. 27.

³¹⁸ *Ibid.*, p. 28.

³¹⁹ Mr John Gommans, public hearing, Warragul, 21 August 2019, *Transcript of evidence*, p. 27.

This was echoed by Ms Sally Fensling (Agriculture Victoria) who told the Committee that:

... for processes like the development of legislation or codes we typically take a really broad view and open conversations with a really wide range of community members and representative organisations, so it might be that we engage with particular individuals and livestock producers that make themselves known to us or are particularly interested in the topic which we are considering. We might work through representative groups. Michael touched on the VFF as well as RSPCA. We work actively with Animals Australia and other groups like that as well. We also work with the Minister's animal welfare advisory committee—they are a group of experts appointed by the Minister that provide us with their expertise and experience on a very wide range of matters—and then a range of sector organisations.³²⁰

Social licence to operate can also be seen in market forces. In this case, consumers show they approve of animal production by continuing to eat meat.

In the Committee's view, if the misperception that the animal agriculture industry operates in secrecy continues to grow this will damage the social licence and therefore viability of the industry. Any declining trust in the transparency of the industry would need to be addressed to ensure farmers and their communities are not affected by the consequences. As noted throughout this report, there is a large deal of oversight of the animal agriculture industry in Victoria by the regulators Agriculture Victoria and PrimeSafe.

The Committee repeats that this does not justify the use of illegal tactics by animal rights activists to satisfy what is their own definition of transparency in the industry. It is in the best interests of both the industry and animal rights activists to continue their dialogue regarding animal welfare. This would both ease concerns about welfare issues and safeguard the industry's social licence.

5.4 Is there a disconnect between urban and rural communities?

Some industry stakeholders in this Inquiry stated that a disconnect between metropolitan and rural and regional areas drives perceptions that the industry engages in systemic cruelty. The Committee heard the view that animal rights activists conflate legal and illegal practices. This affects the general public's understanding of humane practices in the industry.

Ms Katherine Cain believed it was important to address this disconnect by demonstrating that the majority of businesses engage in lawful practices and exercise good animal welfare:

³²⁰ Ms Sally Fensling, *Transcript of evidence*, p. 3.

... it has been that disconnect, I suppose, between rural and regional areas and the city that has largely brought it about. There is that adage – people have said, ‘Everyone had a relative on a farm’ a generation ago. They visited, they knew what happened, they knew what went on and no-one was being like, ‘Oh, holy moly, that’s a bit rough’. But we do know that now. I think that there is the bottom 1 per cent or 2 per cent of farmers out there that are pretty crap at what they do, and they do mean things to animals, let us be blunt. But the overwhelming majority do not, so it is perhaps about picking out those 1 per cent or 2 per cent, sorting them out, and then showing the rest of the world—or even to our city cousins—that what we are doing is actually okay and no-one is getting hurt. Yes, animals die earlier than they are expected to do. At the end of the day we can argue from a philosophical point of view whether that is cruel or right or wrong or whatever, but it is life.³²¹

In a different take on the issue of transparency than that of activists, Mr Leonard Vallance from the VFF identified a need to increase urban communities’ awareness of contemporary animal agriculture practices. This would both bring urban and rural communities together and allow better informed consumers to continue enjoying a meat-based diet. He said:

The gaining of knowledge would be better, and the knowledge of how people’s food is grown, where it is grown and who grows it is at a serious deficit in our modern society. People are so detached from the people that grow their food they do not actually understand how food is actually grown for them to eat and to enjoy.³²²

The idea of a disconnect was questioned by PETA Australia, who argued that the belief there is tension between regional and metropolitan areas stems from an unwillingness of the industry to accept ‘objective evaluation[s]’ of its practices.³²³ The *Victorians’ Attitudes to Farming* report also questioned the assertion that an urban–rural divide drives critiques of farming practices.³²⁴ The report found no difference in the level of ‘critical activism’ (i.e. protesting general or specific practices of animal production) between urban and rural populations.³²⁵

In the Committee’s view, urban communities generally do not hold negative views of rural communities and businesses. This has been shown in many surveys over the years and can be seen in other ways, such as urban communities’ generous contributions to natural disaster appeals. Regardless, evidence in this Inquiry suggests that there is a lack of awareness in both urban and rural and regional communities of legislation and regulations governing the animal agriculture industry and the high animal welfare standards in the industry. Industry and regulators must address this lack of awareness across the whole of Victoria.

³²¹ Ms Katherine Cain, public hearing, Warrnambool, 17 September 2019, *Transcript of evidence*, p. 17.

³²² Mr Leonard Vallance, Chairman, Victorian Farmers Federation Livestock Group, public hearing, Horsham, 18 September 2019, *Transcript of evidence*, p. 3.

³²³ PETA Australia, *Submission 177*, p. 7.

³²⁴ Peter Parbery and Roger Wilkinson, *Victorian’s attitudes to farming*, p. 1.

³²⁵ *Ibid.*, p. ii.

Educated consumers make better choices. However, the Committee is concerned that some footage made public by activists does not differentiate between legal and illegal practices. Any conflation of standard practices with illegal animal cruelty is dishonest and misleading to consumers and unfairly risks the industry's reputation and economic viability.

5.5 Ways to improve public awareness of standard animal agriculture practices

When reading the submissions to this Inquiry, the Committee came to understand that there is a level of misinformation among the wider community regarding animal agriculture practices and the laws governing them. Agriculture Victoria is ideally placed to correct this misinformation, allowing Victorians to be better informed in this area.

The Committee believes that Agriculture Victoria should include on its website a page explaining standard industry practices and relevant legislation and regulations. This webpage should also include a 'Q&A' function where members of the public can ask questions with the answers also published online. This would lead to better educated consumers and reduce the ability of some animal rights activists to mislead the community, thereby helping protect the industry's reputation. The Committee understands Agriculture Victoria already includes much of this information in its annual reports and does not wish to add to its workload. Publishing this information on a distinct webpage would simply make it easier for the public to be fully informed.

Furthermore, the Committee recommends that Agriculture Victoria and PrimeSafe make examples of good practice easily accessible to the public. This would ensure the community is better informed about the ways in which industry meets its compliance obligations regarding animal welfare.

FINDING 8: Industry peak bodies and regulators can do more to inform the public about Victoria's animal welfare standards.

RECOMMENDATION 6: That Agriculture Victoria display online information about animal agriculture standard practices and related legislation and regulations.

RECOMMENDATION 7: That Agriculture Victoria and PrimeSafe work with industry to collect examples of benchmark, high-quality animal welfare and biosecurity activities in animal agriculture to better inform the community of agricultural practices.

5.6 Mistreatment of animals and illegal practices

While animal rights activists emphasise the importance of revealing legal industry practices they believe are cruel, it is equally important to uncover illegal practices. Some activists believe that authorities such as Agriculture Victoria and PrimeSafe ignore evidence of law breaking and avoid bringing about prosecutions. This means that activists feel they have a moral obligation to expose wrongdoing, often by their own illegal means.³²⁶ The Committee heard that unlawfully gained footage is published to rally community support and put pressure on authorities to investigate and punish those who break the law.

Mr Delforce stated:

There have been a number of times when we have reported cruelty on farms and in slaughterhouses. Many of those times—pretty much every time—we have been ignored. ... Sometimes we have seen a response happen only after we then take it to the media and we show that the public is outraged about what is happening and they are saying to the RSPCA—or whoever the body may be in each state—should have the power to go and investigate and prosecute these places. When the public holds these bodies to account, we start to see action.³²⁷

In its submission to this Inquiry, Humane Society International argued that there has been inadequate response from government to evidence of animal cruelty provided by activists. Further, it stated that a number of animal welfare breaches would not be publicly known without the work of activists:

It is pertinent to recall that the vast majority of producer breaches of animal cruelty laws and standards would not be public knowledge without the efforts of whistleblowers and direct activism—activism which has at common law been found to be squarely within the public interest and therefore legal.³²⁸

This was echoed by Ulla Secher, who further argued that impeding activists' ability to access places where cruelty takes place would only serve the interests of those committing illegal acts:

It is because animal cruelty is finally being exposed by animal advocates and whistleblowers that any measures to prevent or deter them from exposing such extreme animal cruelty, abuse and neglect on Victorian farms and related industries would only serve to ensure that the perpetrators of the cruelty are protected. Any such measures would actively facilitate animal cruelty.³²⁹

³²⁶ For example: Terri Beech, *Submission 81*; Kim McDonald, *Submission 112*; David Leyden, *Submission 400*.

³²⁷ Mr Chris Delforce, *Transcript of evidence*, p. 12.

³²⁸ Humane Society International, *Submission 354*, p. 6.

³²⁹ Ulla Secher, *Submission 292*, p. 1.

At the time of conducting this Inquiry the Committee was made aware of an alleged illegal abattoir operating near Koo Wee Rup. Undercover footage taken at the facility depicted suspected:

- Acts of animal cruelty such as sheep being slaughtered without stunning
- Breaches of biosecurity, OH&S and workplace cleanliness
- Food safety breaches.³³⁰

This incident was discussed by Mr Delforce during his testimony at a public hearing where he also acknowledged the strong response from authorities:

We have also recently reported an illegal slaughterhouse that was essentially operating in someone's garage, and in that instance we have seen a strong response from PrimeSafe and from the Department of Agriculture.³³¹

However, Mr Delforce raised what he considered inconsistent approaches to investigating animal cruelty across the regulators.³³² Agriculture Victoria was still investigating this matter at the time of writing.

The perception among activist stakeholders that there is a conflict of interest between promoting agriculture and having responsibility for animal welfare is discussed in section 6.8.1. Activists' calls for increased protections for whistleblowers and others who expose animal cruelty is discussed in section 2.5.

In contrast, the Committee received evidence which showed the nuanced approach regulatory bodies take when investigating and addressing animal cruelty, especially Agriculture Victoria. Mr Rosier (Agriculture Victoria) explained that the approach taken by Agriculture Victoria in responding, monitoring and preventing animal cruelty is not just about 'going out there with a view to prosecution'. He told the Committee:

A lot of the work we do is about informing people of best practice and the risks so that they can understand why it is important to approach farm management, biosecurity and animal welfare from a certain perspective... What I mean by that is it starts with extension, advisory services and provision of general information to help set the scene and context for why we do what we do and why it is important for us, for industry, for community and for all of us, because biosecurity and animal welfare impacts on all of us and we do all legitimately have a role in it.³³³

³³⁰ Georgie Moore and Kaitlyn Offer, 'Probe into 'brutal' illegal abattoir after film shows cruel treatment', *The Age*, 2 August 2019, <<https://www.theage.com.au/national/victoria/probe-into-brutal-illegal-abattoir-after-film-shows-cruel-treatment-20190802-p52d88.html>> accessed 10 October 2019; Ben Knight, 'Video footage allegedly reveals animal cruelty as illegal abattoir near Melbourne', *ABC News*, 2 August 2019, <<https://www.abc.net.au/news/2019-08-02/video-footage-reveals-alleged-cruelty-at-illegal-slaughterhouse/11375854>> accessed 10 October 2019; Lachlan Hastings, 'Probe into alleged illegal Victorian abattoir', *The Weekly Times*, 2 August 2019, <<https://www.weeklytimesnow.com.au/news/victoria/probe-into-alleged-illegal-victorian-abattoir/news-story/aecb0ac7fab506ff69410d20c1ff9036>> accessed 10 October 2019.

³³¹ Mr Chris Delforce, *Transcript of evidence*, p. 12.

³³² Ibid.

³³³ Mr Michael Rosier, Acting Executive Director, Biosecurity Services, Biosecurity and Agriculture Services, Agriculture Victoria, public hearing, Melbourne, 23 September, *Transcript of evidence*, p. 9.

As mentioned in section 6.8, businesses may be given an opportunity, where appropriate, for ‘voluntary assisted compliance’ before regulators pursue ‘forced compliance’ or prosecution.³³⁴ The Committee agrees with the approach taken by Agriculture Victoria in supporting compliance through a continuum of regulatory action. This gives businesses the opportunity to address and improve processes—except for extreme acts that demand immediate prosecution—with the support of regulatory bodies. However, the evidence in this Inquiry suggests this approach is not well understood by the public.

One of the purposes of the *Prevention of Cruelty to Animals Act 1986* is to improve the level of community awareness about the prevention of cruelty to animals.³³⁵

RECOMMENDATION 8: As a continuation of Recommendation 6, that Agriculture Victoria make information about the ‘compliance continuum’ more accessible on its website. This would help the public better understand the approach regulators take regarding breaches of animal welfare regulations and standards.

5.6.1 Industry’s response to policing animal cruelty

Industry stakeholders were adamant that the vast majority of businesses engage in humane and legal practices. Further, the industry is committed to stamping out any ‘rogue’ operators and stopping animal cruelty when it becomes known. This is partly out of respect for animals and partly economical, as engaging in cruel practices reduces the quality of the product and, therefore, profits.

Mr David Jochinke, President of the Victorian Farmers Federation, told the Committee:

We are one of the most regulated countries dealing with agriculture in the world, and so when there are assertions of be it crime, be it misconduct, be it whatever you would like to classify it as, we are one of the preferred suppliers because we do not do that [animal cruelty]. Even more so, if this was systemic, if this cruelty was happening in every corner of every farm and every property, the media would be on it like a rash. Not only that, I would also suggest that the industry itself would be wanting to shut it down, because we realise that if we are in the business of producing food, if we cannot sell food, if we cannot satisfy customers’ choice—because at the end of the day, we are talking about choice here as much as anything else—we would not be able to fulfil that duty.³³⁶

The Committee is concerned about recent incidences of alleged illegal practices in Victoria, including those exposed by hidden camera devices. The Committee also understands, as discussed below and elsewhere in this report, the long role civil disobedience has played in bringing about change in our society, especially when authorities lag behind or do not live up to community expectations.

³³⁴ Ibid.

³³⁵ *Prevention of Cruelty to Animals Act 1986* (Vic) Parts 2 and 3.

³³⁶ Mr David Jochinke, President, Victorian Farmers Federation, public hearing, Melbourne, 23 September 2019, *Transcript of evidence*, p. 50.

In this case, however, the Committee does not support the use of unlawful means to obtain evidence of the illegal treatment of animals. All animal welfare complaints received by Agriculture Victoria are assessed by an Agriculture Victoria inspector authorised under the *Prevention of Cruelty to Animals Act 1986*. Inspectors respond within 48 hours of receiving a report to prevent animal cruelty continuing.³³⁷ Animal activists are urged to approach Agriculture Victoria, PrimeSafe, RSPCA Victoria or Victoria Police if they suspect a business is committing illegal acts.

FINDING 9: Any alleged illegal acts against animals should be immediately investigated and, if proven, those guilty should be prosecuted.

5.7 Transitioning to alternative practices

As stated above, many animal rights activists believe that providing more information about the animal agriculture industry will encourage consumers to move away from animal products, either partly or completely. For example, Ms Nichola Donovan believed that it is 'quite inevitable that humans will have to move away from killing animals'.³³⁸ It was her view that the global growth of veganism is evidence that people are slowly becoming fully educated about animal agriculture.³³⁹ Liam Milton-McGurk thought that consumers are beginning to switch to more 'ethical' food products, including plant-based products.³⁴⁰

While some industry stakeholders view such statements as an attack on their way of life, activists holding this view see it as a positive. These activists identify economic opportunities for farming communities to transition away from animal production towards plant-based alternatives, to prepare for what they consider to be an inevitable change. Cassandra Pollock argued that farmers not meeting this demand is a bigger risk than animal rights activism:

The economic risk to establishments that farm animals in an inhumane manner exists regardless of whether a trespassing incident occurs or does not occur. This economic risk exists because consumer preferences are rapidly evolving away from food products that entail cruelty or are unsustainable.³⁴¹

However, industry stakeholders were critical of the suggestion that Victorian animal producers should transition to plant-based farming.³⁴² These stakeholders claimed activists misrepresent and exaggerate community views and are being impractical.³⁴³ At a public hearing, Mr Vallance explained why in his view transitioning completely

³³⁷ Agriculture Victoria, Response to Questions on Notice.

³³⁸ Ms Nichola Donovan, public hearing, Melbourne, 4 September 2019, *Transcript of evidence*, p. 43.

³³⁹ Ibid.

³⁴⁰ Liam Milton-McGurk, *Submission 293*, pp. 1-2.

³⁴¹ Cassandra Pollock, *Submission 452*, p. 3.

³⁴² Mr Chris Nixon, public hearing, Bairnsdale, 20 August 2019, *Transcript of evidence*, p. 8.

³⁴³ Alan Payne and Louise Ackland, Payne's Farm Contracting, *Submission 165*.

to plant-based production is not a practical option for Australia. He argued that most land is unsuitable for plant-based production and such a transition is therefore not economically viable.

Mr Chris Nixon told the Committee a better option for sustainable agricultural practice would be regenerative agriculture rather than monocultural farms.³⁴⁴

The reality is that once people get to understand what regenerative ag is all about, the ability to capture and store carbon in a grazing enterprise far outweighs growing trees, and that is now only just coming out. It is not well-known. You have got practitioners in the industry now like Dick Richardson, Colin Seis, Charlie Massy and a few who are out there spreading the message on how we can improve grazing practices to capture more carbon and improve our productivity. So monoculture, you have only got to go and see the almond farmers up in Mildura to understand that they are not a happy place. There is no broad biodiversity program going through there. Between environmental flows and the amount of water going to the almond farmers, they are actually eroding the Barmah Choke. Every farming production system has unintended consequences, and monocultural farms—I can grow all the soybeans I like, and most of them are GM, and people are quite happy to have them, but the reality is when you are growing a plant-based crop you do not want competition to get the maximum productivity out of it.³⁴⁵

The industry is also aware of consumers becoming more conscientious of animal welfare issues and demanding higher standards. It is the industry's view, though, that this does not mean all consumers will shift to a vegetarian or vegan diet. Instead, evidence of the industry's awareness can be found in the fact that, as mentioned in section 6.5, higher industry standards are leading to more humane practices.

In his submission Jason Pincini believed that market-based regulations ensure Australia upholds best practice animal welfare:

A more effective method of ensuring world's best practice is being achieved that is universally used in Australia is the mandatory requirements by the major supermarkets which 3.4% of the total food produced enforced by contract conditions, that producers meet welfare and other standards, that are far in excess of standards of welfare regulations required.³⁴⁶

As also noted in section 3.5.1, for many regional communities in Victoria animal production is central not only to the economic viability of the community but also to their identity. The Committee believes a wholesale transition to crop farming in Victoria is unrealistic.

³⁴⁴ Monocultural farms refers to farms which cultivate a single crop.

³⁴⁵ Mr Chris Nixon, *Transcript of evidence*, p. 8.

³⁴⁶ Jason Pincini, *Submission 13*, p. 1.

6 The regulatory framework for animal welfare in Victoria

6.1 Introduction

This chapter looks at the regulatory framework supporting animal welfare in Victoria. The framework is multilayered, consisting of State legislation and a small number of national guidelines. The codes of practice made under the *Prevention of Cruelty to Animals Act 1986* form the baseline of animal welfare standards for livestock in Victoria. States and territories have also been attempting for many years to establish national animal welfare standards, known as the Australian Animal Welfare Standards and Guidelines. The Chapter also looks at the role of industry quality assurance programs and their relationship with the codes of practice. The Chapter finds that industry-based initiatives often require animal welfare requirements higher than the codes of practice prescribed by the *Prevention of Cruelty to Animals Act 1986*. It ends with an overview of the bodies responsible for monitoring compliance with animal welfare standards in Victoria.

6.2 *Prevention of Cruelty to Animals Act 1986*

In Victoria, animal welfare is principally administered through the *Prevention of Cruelty to Animals Act 1986*. The Act is intended to:

- Prevent cruelty to animals
- Encourage the considerate treatment of animals
- Improve the level of community awareness about the prevention of cruelty to animals.

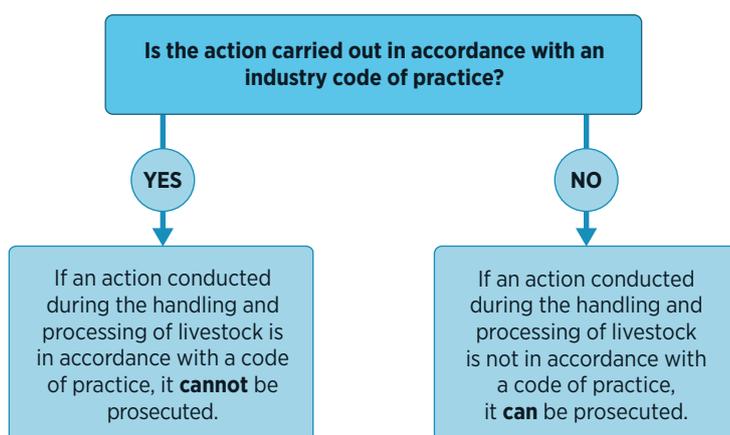
To do this, the Act sets out offences for animal cruelty and powers for agencies to monitor and enforce those offences. It also provides regulation for rodeos, animal-related scientific procedures and breeding licences.

6.2.1 **Codes of practice for animal welfare under the *Prevention of Cruelty to Animals Act 1986***

Codes of practice for animal welfare made under the *Prevention of Cruelty to Animals Act 1986* set out ‘minimum standards and practices for the keeping of a wide range of species and animal related activities.’ This definition includes agricultural purposes such as the keeping of animals, husbandry and transportation. Agriculture Victoria told the Committee that these codes were written ‘after usually fairly substantive consultation with a range of groups—animal welfare-related groups as well as industry and the broader community.’

Many animal rights stakeholders in this Inquiry were of the view that the *Prevention of Cruelty to Animals Act 1986* does not apply to animal production. In fact, the Act does apply to the farming, transport, sale or killing of farm animals when these are not carried out in accordance with the relevant code of practice (see Figure 6.1 below). This means that although the codes are not mandatory (aside from those covering pigs), if they are not followed farmers and agricultural businesses may be liable for prosecution if they act in a way that constitutes a breach of the Act or regulations.

Figure 6.1 Prosecuting animal cruelty under the *Prevention of Cruelty to Animals Act 1986* (relationship with agriculture industry’s codes of practice)



Source: Economy and Infrastructure Committee

The Committee heard that some of the codes of practice may be over 30 years old and therefore may not reflect modern community expectations in relation to animal welfare. Ms Sally Fensling, Executive Director, Animal Welfare Victoria, and Agriculture Regulatory Policy, Agriculture Victoria said that the Victorian Government has committed to reforming the *Prevention of Cruelty to Animals Act 1986* through Victoria’s Animal Welfare Action Plan. This may include making codes of practice mandatory.³⁴⁷ This is also discussed in section 5.2.2.

6.3 Development of the Australian Animal Welfare Standards and Guidelines

States and territories have been attempting to implement national animal welfare standards for many years. It is intended that national standards would, among other things, allow consumers to compare like products from different jurisdictions and reduce regulatory burdens for companies that operate in multiple states and territories.³⁴⁸

³⁴⁷ Ibid., p. 7.

³⁴⁸ Productivity Commission, *Regulation of Australian Agriculture*, Report no. 79, Canberra, 2016, p. 212.

A set of national standards, known as the model codes of practice, had been developed in the 1980s.³⁴⁹ In 2005, the Commonwealth and state and territory governments agreed to update these to a new scheme known as the Australian Animal Welfare Standards and Guidelines. According to the Productivity Commission's *Regulation of Australian Agriculture* report, the new national standards are intended to be converted into mandatory codes of practice in state and territory legislation.³⁵⁰ In Victoria's case, this would mean inclusion in the *Livestock Management Act 2010*, which imposes penalties for failure to comply with specific standards.³⁵¹

The process for developing the national standards has been very slow. Three national standards have been endorsed by state and territory ministers for: livestock and land transport (in 2013); and sheep and cattle (both in 2016). There are still 10 model codes of practice yet to be converted to the new scheme,³⁵² including the development of poultry standards and guidelines underway at the time of writing this report.³⁵³

The Productivity Commission recommended the creation of a new independent agency named the Australian Commission for Animal Welfare to oversee the completion of the national standards. The Productivity Commission said that such a body would provide greater independence to ensure the standards benefit the whole community, address concerns about potential conflicts of interests and enable better cooperation between competing interests.³⁵⁴

A number of stakeholders in this Inquiry agreed with the Productivity Commission's recommendation for the creation of a new independent agency, arguing that it would reduce the need for activism by improving compliance with animal welfare standards. For example, Ms Katelyn Freyer said:

It is of great importance that this agency needs to be established. This would reduce the need for whistleblowers and keep slaughterhouses much more tightly regulated and accountable.

The Committee's view on the creation of a new independent Australian Commission for Animal Welfare is discussed in section 6.6.

6.4 *Livestock Management Act 2010*

The *Livestock Management Act 2010* provides a framework to 'achieve nationally consistent animal welfare, biosecurity and traceability standards.'³⁵⁵ The purpose of the Act is to integrate consistent and nationally-agreed standards of livestock management.

³⁴⁹ Ibid., p. 206.

³⁵⁰ Ibid., p. 207.

³⁵¹ Agriculture Victoria, *Australian Animal Welfare Standards and Guidelines*.

³⁵² Productivity Commission, *Regulation of Australian Agriculture*, pp. 210-1.

³⁵³ Animal Health Australia, *Australian Animal Welfare Standards and Guidelines*, 22 May 2019, <<http://www.animalwelfarestandards.net.au>> accessed 07 November 2019.

³⁵⁴ Productivity Commission, *Regulation of Australian Agriculture*, p. 232.

³⁵⁵ Agriculture Victoria, *Livestock Management Act*, August 2018, <<http://agriculture.vic.gov.au/agriculture/animal-health-and-welfare/animal-health/livestock-management-act>> accessed 20 November 2019.

The Act has two compliance regimes which monitor animal welfare, biosecurity and traceability protocols and processes in agricultural enterprises:

- Compliance for businesses not operating under an approved quality assurance program, where inspection offences will directly apply.³⁵⁶
- A co-regulatory compliance mechanism which recognises existing industry compliance arrangements (e.g. quality assurance programs).³⁵⁷

The purpose of the co-regulatory compliance mechanism is to reduce the regulatory burden on livestock operators through providing exemptions to provisions in the Act if they are operating under an approved compliance arrangement. For example, s 10(b) exempts livestock operators with an approved compliance arrangement from complying with 'any provision under the regulations that creates an offence for failing to comply with a prescribed livestock management standard'.³⁵⁸

The application for approving a compliance arrangement needs to include the following information:³⁵⁹

- Description of the program, inspection and certification processes
- Assessment of likely risks to animal welfare and biosecurity caused by livestock management activity
- Strategies for compliance
- System for accrediting livestock operators
- Verification arrangements
- Other prescribed measures as determined by the Minister under the Act.³⁶⁰

Under the Act livestock operators cannot be prosecuted for animal cruelty if the action complies with regulatory or industry standards or activities. Section 4 of the Act provides a defence for an offence under the *Prevention of Cruelty to Animals Act 1986* if a person was carrying out a 'regulated livestock management activity and acting in compliance with a prescribed livestock management standard'.³⁶¹ In recognising industry quality assurance programs as a mechanism for co-regulatory compliance, the *Livestock Management Act 2010* extends its s 4 defence to livestock operators involved in voluntary industry-based quality assurance programs.

³⁵⁶ Ibid.

³⁵⁷ Agriculture Victoria, *Livestock Management Legislation and Regulations*, N.D., <<http://agriculture.vic.gov.au/agriculture/animal-health-and-welfare/animal-welfare/animal-welfare-legislation/livestock-management-legislation-and-regulations>> accessed 20 September 2019.

³⁵⁸ *Livestock Management Act 2010* (Vic) s 10(b).

³⁵⁹ Section 10 provides an exemption for ss 7 -8 of the *Livestock Management Act 2010* which outlines the process of carrying out a systematic risk assessment, including the content of the risk assessment. The content described in s 8 of the Act is similar to the information needed for a compliance arrangement application.

³⁶⁰ *Livestock Management Act 2010* (Vic) s 13.

³⁶¹ Ibid., s 4(3).

However, as noted previously, if a person does not comply with the regulated activity or prescribed standard under the Act or contained in a quality assurance program, they may still be liable for prosecution for animal cruelty.

6.5 Industry quality assurance schemes that include animal welfare

A variety of industry quality assurance schemes contain animal welfare (and biosecurity) requirements. These schemes are administered by industry bodies and involve compliance requirements and, usually, independent monitoring. At a public hearing, Mr John Buxton showed the Committee a large folder containing Meat and Livestock Australia's Livestock Production Assurance program:

This is our Livestock Production Assurance folder, which lives in the metal cabinet in the shearing shed, and it contains all of the elements of livestock production, known as LPA, which is the national livestock industry on-farm quality assurance program. I put a fair bit of time into putting this together. You will see, in the front there, there is a colour code for the different sections of it. It covers all the things that we do on the farm, and everything that we do is either recorded here or on a computer—everything: chemical inventory, animal treatments, pasture chemical inventory, preparation of livestock for transport, fertiliser applications, biosecurity plan, livestock transactions and movements, animal welfare, property risk assessment and our certificates for having passed the examinations in animal welfare et cetera.³⁶²

The Committee heard that the animal welfare component of many industry programs is set at a higher benchmark than legislated minimum standards. For example, the Australian Dairy Foundation claimed in its submission: 'The Australian dairy industry's animal welfare standards and practices go beyond State and Federal regulations.'³⁶³

Mr Timothy Kingma from the Victorian Farmers Federation said that the Australian Pork Industry Quality Assurance Program³⁶⁴ voluntarily mandated the removal of sow stalls, which are legal in Victoria.³⁶⁵ Mr Kingma added that he believed over 90 per cent of the industry is accredited under the program, which is independently audited every year.³⁶⁶

In its submission, the Australian Meat Industry Council explained how its standards are verified by government and industry auditors. It wrote:

Australia's animal welfare legislation and the AMIC Standards are verified by Commonwealth and State inspectors and commercial auditors on behalf of our customers. At the Commonwealth level, the Department of Agriculture recognises the AMIC Standards within its regulatory framework and on plant veterinary officers

³⁶² Mr John Buxton, Buxton Ag, public hearing, Bairnsdale, 20 August 2019, *Transcript of evidence*, p. 2.

³⁶³ Australian Dairy Foundation, *Submission 272*, p. 16.

³⁶⁴ Agriculture Victoria, *Pig Welfare Standards and Guidelines: Revision one 2012*, 08 May 2017, <<http://agriculture.vic.gov.au/agriculture/animal-health-and-welfare/animal-welfare/animal-welfare-legislation/livestock-management-legislation-and-regulations/pig-welfare-standards-and-guidelines>> accessed 11 November 2019.

³⁶⁵ Mr Timothy Kingma, public hearing, Wangaratta, 8 October 2019, *Transcript of evidence*, p. 10.

³⁶⁶ *Ibid.*

maintain a presence at export establishments to regularly review animal welfare practices, as well as other activities. The AMIC Standards are also recognised commercially as part of a number of customer requirements and are verified via independent audit accordingly.³⁶⁷

Retailers also impose animal welfare requirements on producers. For example, Coles and Woolworths have animal welfare policies for their ‘own brand’ products that must be met. These include the conditions animals live in and how they are treated prior to slaughter.³⁶⁸

Mr Chris Nixon explained how important it is for his business to meet retailers’ animal welfare requirements:

If you want to supply their programs, and that is where the best dollars in the marketplace are, you have to be a part of them. I have always been fond of the market-based solution, and that is a very clear one.³⁶⁹

The Committee acknowledges that industry quality assurance programs often ensure higher animal welfare standards than the codes of practice contained in the *Prevention of Cruelty to Animals Act 1986*. Such schemes can complement existing animal welfare legislation, referred to as ‘co-regulation’. The Productivity Commission noted the ways in which industry quality assurance schemes can offer benefits in terms of administrative costs and flexibility, stating:

Co-regulation offers potential advantages over traditional regulation, including greater flexibility and adaptability, lower compliance and administrative costs, ability to address industry-specific and consumer issues directly, and quicker and lower-cost complaints handling.³⁷⁰

However, some stakeholders in this Inquiry expressed doubts about the industry’s capacity to regulate itself. For example, Danielle May stated in her submission that:

... there is little economic incentive for animal industries to provide improved animal welfare; especially where doing so increases costs. Indeed, studies have shown that improved animal welfare and productivity are often in conflict.³⁷¹

The Committee believes that when considering voluntary and compulsory standards the Victorian Government and the animal agriculture industry should be aware that concerns such as these exist in the community. Industry in particular needs to be prepared to respond to misinformation that misleads the public. This is discussed further in the next section.

³⁶⁷ Australian Meat Industry Council, *Submission 246*, p. 5.

³⁶⁸ Coles Group, ‘Animal Welfare Policy’, 2013; Woolworths, ‘Woolworths Animal Welfare Policy: for Woolworths Own Brand Products (Australia Only)’, 2019.

³⁶⁹ Mr Chris Nixon, public hearing, Bairnsdale, 20 August 2019, *Transcript of evidence*, pp. 9-10.

³⁷⁰ Productivity Commission, *Regulation of Australian Agriculture*, p. 243.

³⁷¹ Danielle May, *Submission 490*, p. 6.

FINDING 10: Many industry quality assurance schemes in the animal agricultural sector deliver higher animal welfare standards than those required by the codes of practice in the *Prevention of Cruelty to Animals Act 1986*.

6.6 Modernising the *Prevention of Cruelty to Animals Act 1986*, the stalled national standards process and the role of industry quality assurance programmes

As stated above, the Victorian Government has committed to reforming the *Prevention of Cruelty to Animals Act 1986* through its Animal Welfare Action Plan. The Plan outlines a process whereby the codes of practice will be reviewed following consultation with animal producers, the Animal Welfare Advisory Committee, enforcement groups and local government.³⁷² The Department of Jobs, Precincts and Regions also posted Draft Regulations online for public comment.³⁷³

This commitment may suggest that the Victorian Government is no longer waiting for agreement on national animal welfare standards. The decision to modernise the Victorian codes of practice before the national standards are agreed to is understandable, given that that process has been underway since 2005 with little to show in the way of progress.

In the meantime, industry quality assurance programs and retailer animal welfare requirements meet most consumers' preferences for high animal welfare standards. While industry quality assurance schemes lack the compliance and penalty components of a legislated regulatory system, albeit with the risk of losing market access, they do set a higher bar for animal welfare than current legislation.

The Terms of Reference for this Inquiry require the Committee to consider ways of improving animal welfare in Victoria. The Committee believes this can be done in two ways. Firstly, the Committee supports the creation of an independent Australian Commission for Animal Welfare, as recommended by the Productivity Commission. The new agency was put forward, in part, to break the impasse between stakeholders that has prevented agreement on national standards. It is clear that action is needed to hasten the process. The Committee believes the Victorian Government should express its support for the creation of the new agency to the Commonwealth.

In the absence of national standards, the Committee supports the Victorian Government's decision to modernise the *Prevention of Cruelty to Animals Act 1986* and codes of practice. It believes that Victoria should lead the nation in devising its own modern animal welfare legislation and codes of practice. Such codes would act as a new, higher legislated minimum. This is with the caveat that Victoria's codes would be superseded by national standards if agreement is ever reached.

³⁷² Victorian Government, *Animal Welfare Action Plan: Improving the Welfare of Animals in Victoria*, online, 2017, p. 15.

³⁷³ The comments have now closed, although the Draft Regulations are still available to view. See: <https://engage.vic.gov.au/prevention-cruelty-animals-draft-regulations-2019>; accessed 21 November 2019.

In addition, industry would still be able to seek approval for co-regulatory arrangements under the *Livestock Management Act 2010*. The Committee recommends the Government aim for the new codes of practice under the *Prevention of Cruelty to Animals Act 1986* to be completed as a priority.

In doing so, the Victorian Government can incorporate many of the standards already required by existing quality assurance schemes into the codes. As explained above, the schemes better reflect modern public expectations in regard to animal welfare than the current codes of practice and in some cases have been implemented in response to consumer demand. Crucially, because they are already practised by industry, they will not be a burden on businesses.

See Figure 6.2 for an overview of the approach recommended by the Committee.

The Committee also understands that some standards required by retailers are difficult for small businesses to meet and at times go beyond what would be considered minimum acceptable standards. The Victorian Government should implement strong minimum standards for animal welfare while also being mindful of not setting the bar unnecessarily high.

In addition, the Committee believes the new codes of practice should be mandatory, with penalties for non-compliance. There are two benefits to making the codes of practice mandatory:

- An additional safeguard to protect animal welfare
- Increased community confidence in the sector.

FINDING 11: Updating the codes of practice for animal welfare under the *Prevention of Cruelty to Animals Act 1986* would help ensure consumer confidence in the industry.

RECOMMENDATION 9: That the Victorian Government express its support to the Commonwealth Government for the creation of an Australian Commission for Animal Welfare, in order to expedite the process for the agreement of the Australian Animal Welfare Standards and Guidelines.

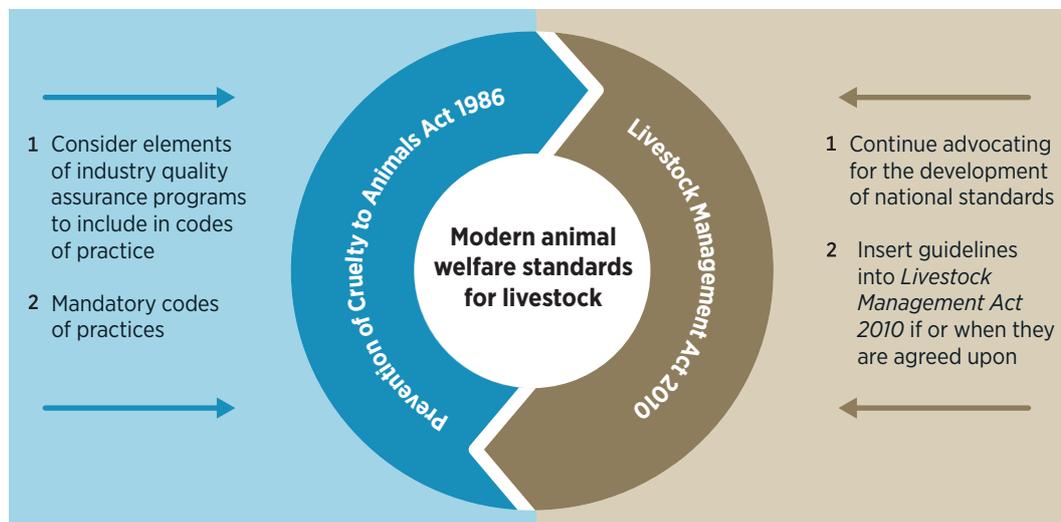
RECOMMENDATION 10: That the Victorian Government, in the absence of approved Australian Animal Welfare Standards and Guidelines, incorporate existing animal welfare elements of industry quality assurance schemes into new codes of practice as part of its modernisation of the *Prevention of Cruelty to Animals Act 1986*.

RECOMMENDATION 11: That the Victorian Government consider its modernisation of the *Prevention of Cruelty to Animals Act 1986* to be a matter of priority.

RECOMMENDATION 12: That the Victorian Government conduct an examination of alternative practices used around the world in the treatment of live male chicks in the egg industry and the use of blunt force trauma on goats, pigs, and cows with a view to adopting ‘world’s best’ practice. These standards should be higher than the existing codes of practice in the *Prevention of Cruelty to Animals Act 1986*.

RECOMMENDATION 13: That any new codes of practice in the *Prevention of Cruelty to Animals Act 1986* include appropriate penalties for non-compliance.

Figure 6.2 An overview of the suggested regulatory reform of animal welfare standards in Victoria



Source: Economy and Infrastructure Committee

6.7 Closed-circuit television (CCTV)

Several stakeholders in this Inquiry called for closed-circuit television (CCTV) to be installed on Victorian agricultural premises, including all farms and abattoirs. There are four main justifications for the use of CCTV in the animal agriculture sector:

- Deterring the mistreatment of animals
- Collect evidence in cases of alleged mistreatment of animals
- Maintain public confidence in the sector
- Reduce activists’ motivation to trespass to gain their own evidence.

A contrary position was presented by Mr David Jochinke, President of the Victorian Farmers Federation, when asked about the installing of CCTV on Victorian farms. Mr Jochinke said this would infer that farmers were ‘criminals’ who had done something wrong. He added:

I really struggle that that should be a solution. However, I will also say that we have to make sure that as far as the agriculture community goes, we are open to having conversations, that we are open to giving assurances. But to treat us in such a manner is not only disrespectful in its absurdity, but then also for me as a citizen I would find that a complete disrespect to not only my trade but to my profession and even my community.³⁷⁴

Mr Stephen Sheridan, CEO of the Victorian Farmers Federation also said that the introduction of CCTV would suggest that farmers were doing something wrong, and asked if CCTV should be included in every business across Victoria:

How many business places are there across the entirety of Victoria and are we going to impose the same constraints on those businesses and ensure that they all, in every workplace, have CCTV and then—³⁷⁵

6.7.1 CCTV in other industries

The Committee is aware of other industries where CCTV is the norm. Ms Mel Walker from the Law Institute of Victoria explained that CCTV cameras are found in workplaces where there is sufficient public interest to justify their presence and where they are a useful evidence-gathering tool. Ms Walker said:

Well, we have them, thankfully, in prisons. We have them now in police stations. At the significant Coroners Court inquiry that has just occurred, had we not had that CCTV footage then, we would not know really what happened. I think it is an investigatory and evidentiary tool of the future, and I think it will be used more and more as it is being rolled out.³⁷⁶

Other examples include the commercial passenger vehicle industry, where footage can only be downloaded by authorised officers to investigate allegations of criminal behaviour.³⁷⁷ CCTV is also commonplace in casinos and across the public transport network.

³⁷⁴ Mr David Jochinke, President, Victorian Farmers Federation, public hearing, Melbourne, 23 September 2019, *Transcript of evidence*, p. 47.

³⁷⁵ Mr Stephen Sheridan, CEO, Victorian Farmers Federation, public hearing, Melbourne, 23 September 2019, *Transcript of evidence*, p. 47.

³⁷⁶ Ms Melinda Walker, Co-Chair, Criminal Law Executive Committee, Law Institute of Victoria, public hearing, Melbourne, 23 September 2019, *Transcript of evidence*, p. 23.

³⁷⁷ Commercial Passenger Vehicles Victoria, *Security cameras in commercial passenger vehicles*, N.D, <<https://cpv.vic.gov.au/vehicle-owners/commercial-passenger-vehicle-specifications/security-cameras-in-commercial-passenger-vehicles#info>> accessed 12 November 2019.

However, the Committee was made aware of privacy concerns amongst abattoir workers and union representatives about the use of CCTV. A witness told the Committee that he was cautious about the issue and that consultation with workers and the union would be necessary:

... we are very, very cautious. I know the meat union are very cautious about, obviously, surveillance, their privacy³⁷⁸

... there are areas where cameras are valuable as far as workplace accidents go—areas where there is non-compliance should definitely have cameras—but that is something that we would have to discuss with the union. But I know that they are not that keen on cameras being on plant. To what level they accept certain cameras in certain areas is something we have not discussed with them yet.³⁷⁹

6.7.2 Areas in Victorian agricultural facilities suggested for CCTV monitoring

The Committee considered the use of CCTV on farms and in abattoirs. It believes there is strong evidence to support mandating the use of CCTV in abattoirs. This is because there is sufficient level of public concern regarding animal welfare immediately prior to and during slaughter. The relatively confined spaces of abattoirs also makes the use of CCTV feasible.

The Committee stresses that it does not believe installing CCTV in abattoirs is an accusation of wrongdoing in that sector. The Committee has a high regard for the professionalism of abattoir workers in Victoria. It is also aware that abattoirs that undertake ritual slaughter for religious groups are already required to have CCTV installed.³⁸⁰ Rather, it agrees with the view put forward in a submission by Ken Mander, who said that the use of CCTV in abattoirs would help bolster confidence in the sector:

One way to ensure transparency of operations is to use CCTV. If CCTV cameras are good enough for places of business or the people walking around Melbourne or Chapel Street, why wouldn't they be good enough for our abattoirs and other farming situations? ... It would also go a long way to instilling confidence in the public that animal welfare is being monitored.³⁸¹

A similar view was presented by Ms Mhairi Roberts, Animal Welfare Policy Manager at RSPCA Victoria. She told the Committee: 'Greater transparency improves public attitudes and confidence the industry is treating animals more humanely.'³⁸²

³⁷⁸ Name Withheld, public hearing, Warragul, 21 August 2019, *Transcript of evidence*, p. 37.

³⁷⁹ *Ibid.*, p. 38.

³⁸⁰ Ms Sally Fensling, *Transcript of evidence*, p. 12.

³⁸¹ Ken Mander, *Submission 238*, p. 5.

³⁸² Ms Mhairi Roberts, Animal Welfare Policy Manager, RSPCA Victoria, public hearing, Melbourne, 4 September 2019, *Transcript of evidence*, pp. 47-8.

Aside from abattoirs, the Committee does not believe there is a case to mandate the use of CCTV on farms in Victoria. In addition, the Committee was told cost and logistical difficulties involved with such a policy would render it impractical. Mr Sheridan, CEO of the Victorian Farmers Federation said: ‘The cost of actually doing something, I would hate to think. It would be prohibitive...’.³⁸³

6.7.3 Monitoring CCTV footage

Some stakeholders suggested to the Committee that footage from CCTV cameras should be livestreamed and available for the public to view. The Committee disagrees. Aside from the technical and cost implications of such a measure, the dissemination of such footage into the public domain may be in breach of the *Privacy and Data Protection Act 2014*.³⁸⁴

The Committee believes that a better system would be to require abattoirs to save the footage for a set period of time. The footage would then be available for viewing by an appropriate authority, either during an inspection or in response to a complaint made about animal welfare.

The Law Institute of Victoria suggested that an independent body should be formed with the authority to view CCTV footage:

It is imperative that regular monitoring takes place, without the need for an initial report of malpractice. This may require the formation of a new body, independent from the industry, to be formed to conduct ongoing, unannounced routine inspections of agricultural farms, to ensure conditions and practices are compliant with the standards and the installation of CCTV.³⁸⁵

Ms Pam Ahern from Edgar’s Mission suggested that the proposed Australian Commission for Animal Welfare discussed earlier could undertake this role.³⁸⁶

The Committee notes that in PrimeSafe a regulator is already in place in Victoria with the requisite powers and industry expertise to view such footage. This role could either be allocated to independent third party auditors or carried out by PrimeSafe when investigating animal welfare issues.

6.7.4 CCTV and animal welfare in other jurisdictions

Several countries have mandatory CCTV in abattoirs. In France, cameras have been compulsory since January 2017, whereas in Scotland they have been compulsory since January 2019. England introduced compulsory CCTV in abattoirs in May 2018. According

³⁸³ Mr Stephen Sheridan, *Transcript of evidence*, p. 47.

³⁸⁴ Office of the Victorian Information Commissioner, *Your privacy rights*, N.D, <<https://ovic.vic.gov.au/privacy/for-the-public/your-privacy-rights>> accessed 12 November 2019.

³⁸⁵ Law Institute of Victoria, *Submission 424*, p. 23.

³⁸⁶ Ms Pam Ahern, Director, Edgar’s Mission, public hearing, Melbourne, 4 September 2019, *Transcript of evidence*, p. 30.

to the Law Institute of Victoria's submission to this Inquiry, the regulations operate in the following manner:

The regulations create a duty that primary production businesses must install a CCTV system and ensure that it captures a complete and clear image of all slaughtering processes and related operations, in all areas of the slaughterhouse where live animals are present.

These businesses have a duty to retain the CCTV footage for at least 90 days from when the images are taken.

The legislation also empowers inspectors, with the purposes of executing and enforcing the regulations of the Welfare of Animals at the Time of Killing (England) Regulations 2015 (the WATKR), to inspect all CCTV systems, seize any CCTV equipment, and to require a person to provide information without delay. Inspectors also have powers under section 6 to write enforcement notices, requiring persons to take steps to remedy a contravention of these provisions. Inspectors generally enter premises to enforce or execute sections under the Welfare of Animals at the Time of Killing (England) Regulations 2015, and may use acquired footage or information in justifying whether a breach has occurred.³⁸⁷

The Committee understands that the Victorian Government may consider making CCTV mandatory in abattoirs as part of its review of the *Prevention of Cruelty to Animals Act 1986*. If so, legislation should be written in such a way as to address public concern over animal welfare without placing an excessive regulatory burden on industry. The Committee believes that developing a model in line with the *Mandatory Use of Closed Circuit Television in Slaughterhouses (England) Regulations 2018* in Victorian abattoirs would be an effective approach.

RECOMMENDATION 14: That following consultation with industry, unions and other relevant stakeholders, the Victorian Government consider the implementation of closed-circuit television cameras in Victorian abattoirs with a legislative model similar to the *Mandatory Use of Closed Circuit Television in Slaughterhouses (England) Regulations 2018*.

6.8 Animal welfare oversight agencies

There are four main bodies in Victoria that enforce animal welfare legislation and regulations:

- Agriculture Victoria
- PrimeSafe
- RSPCA Victoria
- Victoria Police.

³⁸⁷ Law Institute of Victoria, *Submission 424*, pp. 22-3.

6.8.1 Agriculture Victoria

Agriculture Victoria has primary responsibility for investigating animal welfare matters involving commercial livestock where the number of animals kept is more than 10, or in the case of poultry more than 50.³⁸⁸ Animal welfare cases involving livestock under this threshold are investigated by the RSPCA.³⁸⁹

Members of the public can report suspected animal welfare offences to an Agriculture Victoria animal health officer through a customer service number or email. The kinds of issues that may be the subject of an animal welfare complaint for livestock include:

- Animals in immediate danger of death or harm (such as a dog locked in a car on a warm day or an animal that cannot get up and is distressed)
- Animals that are hurt or abused
- Neglected or abandoned animals
- Animals suffering from untreated injury or disease
- Animals that are not receiving adequate food, water and/or shelter
- Animals that have been deliberately poisoned (other than for the control of declared pests).³⁹⁰

All animal welfare complaints are assessed by an Agriculture Victoria inspector authorised under the *Prevention of Cruelty to Animals Act 1986* using the following 'triage' approach:

Table 6.1 Agriculture Victoria's response approach to reports of animal cruelty.

Triage level		Response time	Risk mitigation
1	The complaint indicates acute (e.g. no water, multiple recumbent/deaths) or active cruelty)	0–48 hours	To prevent animal cruelty continuing
2	The complaint indicates a probable offence not of an acute nature (e.g. insufficient feed)	2–5 days	To prevent animal cruelty occurring
3	No immediate threats to an animal, and with livestock, often related to husbandry practices (e.g. excess wool on sheep, inadequate shelter, shade)	Discretionary	To educate producers to improve practices

Source: Agriculture Victoria, Inquiry into the impact of animal rights activism on Victorian agriculture hearing, response to questions on notice received 23 September.

Correspondence from Agriculture Victoria indicated that inspectors authorised under POCTA are able to conduct unannounced inspections where they suspect animals are at risk. The correspondence noted:

³⁸⁸ Agriculture Victoria, *Reporting Animal Cruelty: when should I make a complaint?*, 12 August 2019, <<http://agriculture.vic.gov.au/agriculture/animal-health-and-welfare/animal-welfare/reporting-animal-cruelty>> accessed 11 November 2019.

³⁸⁹ Ms Mhairi Roberts, *Transcript of evidence*, p. 47.

³⁹⁰ Agriculture Victoria, *Reporting Animal Cruelty*.

- The POCTA Act (Part 2A) provides inspectors authorised under the Act with a range of powers to enter premises
- An inspector can enter without notice and without a warrant if they suspect on 'reasonable grounds' that an animal is abandoned, distressed or disabled, at risk, or likely to be at risk
- Premises includes farms, saleyards, abattoirs and vehicles - but not a residential dwelling (a warrant is required to enter a dwelling)
- If it is determined that a visit is required, an inspector will generally not provide advance notice.³⁹¹

Along with responding to complaints, Agriculture Victoria also undertakes ongoing preventative work by engaging with and informing producers of their animal welfare obligations. Mr Michael Rosier, Acting Executive Director, Biosecurity Services at Agriculture Victoria told the Committee:

... a lot of matters are able to be addressed through being out on farm and actually educating people about what to do and the right way to go about it, or things they need to improve on. So generally, we would respond proactively by being out, whether we are auditing biosecurity practices at saleyards, where we are also monitoring animal welfare practices; whether we are out there at markets monitoring animal welfare; whether we are auditing rodeos and those sorts of things, where we are out there in the landscape interacting with people. We are always using that as an opportunity to educate and check in with people about what they are implementing and how it could be improved.³⁹²

In 2018, Agriculture Victoria received 1485 animal welfare complaints, of which 40% were substantiated. Of these, 496 regulatory outcomes were applied, including 494 regulatory letters, 182 Notices to Comply and two prosecutions.³⁹³

As explained in section 5.6, Agriculture Victoria describes its approach to upholding animal welfare standards as a 'compliance continuum'. This means that businesses may be given an opportunity, where appropriate, for 'voluntary assisted compliance' before regulators pursue 'forced compliance' or prosecution.³⁹⁴

At a public hearing, Mr Michael Rosier from Agriculture Victoria explained the range of options available to regulators across the 'compliance continuum':

... it is information, it is extension, it is being out there, whether that be with farmers, engaging with industry and community groups through animal welfare reform or biosecurity reform...There is a range of things that we do across that entire spectrum,

³⁹¹ Mr Kris Duthie, Acting Director, Animal Welfare Assurance and Reform, Animal Welfare Victoria, Department of Jobs, Precincts and Regions, correspondence, 06 December 2019.

³⁹² Mr Michael Rosier, Acting Executive Director, Biosecurity Services, Biosecurity and Agriculture Services, Agriculture Victoria, public hearing, Melbourne, 23 September, *Transcript of evidence*, pp. 9-10.

³⁹³ Victorian Government, *Submission 419*, p. 6.

³⁹⁴ PrimeSafe uses a similar method.

and it is not about our role spending the majority of our time at any one particular point along that continuum. It is about investing time and resources in connection with industry and in connection with community across that entire continuum.

...

Compliance outcomes range from the provision of information and educational measures, such as advisory letters and extension material, through to the issuing and follow up inspections associated with formal Notices to Comply, the issuing of warning letters and prosecution, depending on the nature and circumstances of the individual matter.³⁹⁵

Some stakeholders in this Inquiry expressed concern with the low number of prosecutions enforced by Agriculture Victoria. For example, Ms Nichola Donovan suggested this figure exposes minimal enforcement of animal welfare legislation:

The Department of Agriculture's website states that there are 22.1 million animals in the industry, spread over 28 892 farm businesses, and that over the last five and a half years the department prosecuted 71 cases of cruelty. That is an average of 13 cases per year or one case per 1.7 million farm animals over a given year. This extremely low incidence of prosecution suggests enforcement of the animal cruelty laws is almost non-existent, with animal industry effectively self-regulating.³⁹⁶

The Committee does not believe that the low number of prosecutions indicates a lack of action regarding animal welfare. Rather, it reflects Agriculture Victoria's 'compliance continuum' approach which, in the vast majority of cases, offers businesses advice on improving practices before considering prosecution. This approach is discussed further at section 5.6.

It is vital that Victorians consider Agriculture Victoria's animal welfare complaints process as the primary recourse for concerns about animal welfare on Victorian farms. Equally, Agriculture Victoria should ensure that its animal welfare complaints process has the confidence of all stakeholders. This may include more engagement with those who make complaints to inform them of the outcome of their complaints and the reasons why or why not a complaint was upheld.

The Committee believes that the Victorian public's understanding of and confidence in the compliance system would be strengthened by Agriculture Victoria conducting an audit of substantiated animal welfare complaints in 2019. The audit should consider whether the appropriate action was taken, in particular regarding the number of prosecutions. The results of the audit should be published on Agriculture Victoria's website as a way of better informing the public about Agriculture Victoria's animal welfare compliance system.

³⁹⁵ Mr Michael Rosier, *Transcript of evidence*, p. 9.

³⁹⁶ Ms Nichola Donovan, public hearing, Melbourne, 4 September 2019, *Transcript of evidence*, p. 41.

FINDING 12: A low incidence of prosecutions for animal welfare offences in the animal agricultural sector does not indicate a lack of enforcement and compliance action by Agriculture Victoria. In some cases, businesses are given the opportunity to improve their practices before prosecution is considered.

RECOMMENDATION 15: That Agriculture Victoria conduct an audit of its responses to substantiated animal welfare complaints in 2019 to determine if the appropriate action was taken in each case. The results of the audit should be published on Agriculture Victoria's website. The results should be deidentified to ensure no breach of privacy occurs.

A conflict of interest?

Some stakeholders told the Committee that Agriculture Victoria's two functions of protecting animal welfare and promoting the agriculture sector represent a conflict of interest. They argue that the pressure to support the economic value of the sector overrides proper monitoring of animal welfare standards.

The Animal Law Institute put forward an example of this view:

Agriculture Victoria has an obvious conflict of interest in the sense that as a regulatory body, it is responsible for promoting and advocating for the agricultural industry and its interests as well as enforcing animal cruelty legislation.³⁹⁷

The Productivity Commission's *Regulation of Australian Agriculture* report also found that some members of the community see a conflict of interest where agriculture departments hold a dual responsibility of promoting agriculture and regulating animal welfare.³⁹⁸

The Animal Law Institute argued that an independent Victorian Government agency responsible for animal welfare alone may be beneficial:

This Independent Office of Animal Welfare should have primary responsibility for the enforcement of animal cruelty legislation in respect of agricultural animals, as opposed to Agriculture Victoria.³⁹⁹

The Committee put concerns about a conflict of interest to Agriculture Victoria, who in response argued that its roles are in fact complementary as animal welfare and economic health are strongly linked. At a public hearing, Ms Fensling stated:

I would also say those outcomes are not mutually exclusive. In terms of animal welfare, we know industry trades on a good reputation for animal welfare, both domestically and overseas, so ensuring good outcomes are in farmers' interests as much as anything.⁴⁰⁰

³⁹⁷ The Animal Law Institute, *Submission 301*, p. 5.

³⁹⁸ Productivity Commission, *Regulation of Australian Agriculture*, p. 21.

³⁹⁹ The Animal Law Institute, *Submission 301*, p. 5.

⁴⁰⁰ Ms Sally Fensling, *Transcript of evidence*, p. 11.

Mr Rosier agreed with the view that the two responsibilities are not mutually exclusive, telling the Committee:

Are we out there working with rural communities around improving agricultural productivity in the work that we do? Yes, we are. At the same time, are we out there as the regulator ensuring that they are doing that in a manner that is appropriate in meeting the requirements that are placed upon them through the legislation and regulations? Yes, we are.⁴⁰¹

The Committee understands that Agriculture Victoria's two roles of promoting the industry and enforcing animal welfare standards could be seen as contradictory. However, it agrees with Agriculture Victoria that the roles often complement each other. There is no evidence showing that Agriculture Victoria has put the economic interests of the animal agriculture industry ahead of the welfare interests of animals.

6.8.2 PrimeSafe

PrimeSafe is responsible for ensuring food safety standards for red meat, poultry and seafood are met by Victorian meat processing facilities, including abattoirs, poultry processors and knackeries.⁴⁰² The facilities licenced by PrimeSafe are required to comply with the Australian Standards for food safety, which include requirements for and compliance with Australian standards for animal welfare. These include the Model Code of Practice for Livestock at Slaughtering Establishments.

Like Agriculture Victoria, PrimeSafe provides advice to its licensees in relation to animal welfare as a preventative measure. This includes workshops and forums to assist with compliance with the guidelines.⁴⁰³ All licenced meat processing facilities are also subject to independent third party audits. Poultry processing facilities are required to undertake audits every six months and abattoirs are required to undergo four audits per year.⁴⁰⁴ There are a range of consequences for failing audits, from being subject to a higher number of annual audits through to prosecution.

Information from PrimeSafe contained in the Victorian Government submission to this Inquiry states that in the past five years, there have been four major and critical non-conformance findings relating to animal welfare discovered by auditors. This is 0.35 per cent of the total number of non-conformance findings. Other areas of non-conformance include food safety and document management systems.⁴⁰⁵

As well as the auditing regime, PrimeSafe conducts two unannounced inspections per year that focus on animal welfare issues. These inspections include an assessment of 'the restraint, stunning and exsanguination equipment and processes, together with a review of associated procedures as documented in the food safety program.'⁴⁰⁶ In the

⁴⁰¹ Mr Michael Rosier, *Transcript of evidence*, p. 11.

⁴⁰² Victorian Government, *Submission 419*, p. 17.

⁴⁰³ *Ibid.*, p. 19.

⁴⁰⁴ *Ibid.*, p. 20.

⁴⁰⁵ *Ibid.*

⁴⁰⁶ *Ibid.*, p. 21.

previous five years, PrimeSafe conducted 418 unannounced inspections and found 13 incidences of non-compliance.⁴⁰⁷

Complaints can also be made to PrimeSafe. In the past five years, PrimeSafe received 51 animal welfare complaints, 14 of which were substantiated. This is 2.3 per cent of the 603 total substantiated complaints.⁴⁰⁸

The Committee invited PrimeSafe to appear at a public hearing to discuss its important role overseeing animal welfare in Victoria. However, PrimeSafe did not send a representative. The Committee is disappointed that it was unable to discuss some of the complex issues raised by stakeholders in this Inquiry with PrimeSafe. It encourages PrimeSafe to continue cooperating with the Parliament in the future.

6.8.3 RSPCA Victoria

RSPCA Victoria is a charity with the authority to monitor animal welfare under the *Royal Society for the Prevention of Cruelty to Animals Act 1968*. Schedule 1 of the Act describes the objectives of RSPCA Victoria as:

... to prevent cruelty to animals by enforcing, where practicable, the existing laws, by procuring the passage of such further legislation as may be thought expedient, by executing and sustaining intelligent public opinion in this regard and by doing all things conducive and incidental to the attainment of the foregoing objects...⁴⁰⁹

RSPCA Victoria also has limited powers under the *Domestic Animals Act 1994* and associated regulations. This power is primarily related to RSPCA Victoria's Special Investigations Unit, which is responsible for identifying, investigating and prosecuting illegal intensive domestic breeding establishments (e.g. 'puppy farms').

Under s 24ZW of the *Prevention of Cruelty to Animals Act 1986* a full-time officer of RSPCA Victoria has the power to file charges for offences of animal cruelty under the Act.⁴¹⁰ A Memorandum of Understanding between RSPCA Victoria and the Department of Jobs, Precincts and Regions states that RSPCA Victoria's powers cover the following animals:

- (a) companion and recreational animals;
- (b) primary production animals where less than ten (10), which includes cattle, sheep, pigs, goats, deer and fifty (50) in the case of poultry;
- (c) equids, including horses used in riding schools and in standardbred or thoroughbred racing; and
- (d) greyhounds used for greyhound racing.⁴¹¹

⁴⁰⁷ Ibid.

⁴⁰⁸ Ibid., p. 22.

⁴⁰⁹ *Royal Society for the Prevention of Cruelty to Animals Act 1968* (Vic) s 1.

⁴¹⁰ *Prevention of Cruelty to Animals Act 1986* (Vic) s 24ZW.

⁴¹¹ Royal Society for the Prevention of Cruelty to Animals (Victoria) and the Department of Jobs, Precincts and Regions, *Memorandum of Understanding*, Victoria, sch 1(1)(a).

Under cl 3.1 of the Memorandum of Understanding, the RSPCA Victoria Inspectorate is responsible for responding to, investigating and prosecuting any animal welfare and cruelty complaints in all cases involving these animals if offences under the *Prevention of Cruelty to Animals Act 1986* and the *Domestic Animals Act 1994* have occurred.⁴¹²

In 2016, RSPCA Victoria commissioned the *Independent Review of the RSPCA Victoria Inspectorate* and appointed former Chief Commissioner of Victoria Police Neil Comrie AO APM as the Senior Reviewer. The review addressed four key terms of reference:

- (a) Describe the scale and scope of the animal welfare and cruelty reports in Victoria.
- (b) Analyse resourcing and funding levels, and if appropriate, recommend alternative operating, funding and resourcing models.
- (c) Document RSPCA Victoria's operational response to reports, including all associated systems and processes, and recommend any improvements that can and should reasonably be made.
- (d) Document RSPCA Victoria's approach to prosecution, including all associated systems and processes, and recommend any improvements that can and should reasonably be made.⁴¹³

The review identified a perception of a conflict of interest in RSPCA Victoria enforcing state laws and regulations while engaging in activism.⁴¹⁴ Mr Comrie found that this perceived conflict of interest had damaged RSPCA Victoria's reputation, including its ability to operate as an independent body.⁴¹⁵ Recommendation 21 of the report called on RSPCA Victoria to, 'while continuing its legitimate advocacy role, discontinue its public activist campaigning against the existing laws of this State'.⁴¹⁶ RSPCA Victoria accepted the report and each of its recommendations.⁴¹⁷

6.8.4 Victoria Police

Victoria Police has powers under the *Prevention of Cruelty to Animals Act 1986* equal to some RSPCA officers.⁴¹⁸ This includes powers to file charges and carry out search warrants.⁴¹⁹

A February 2019 report from the Sentencing Advisory Council on *Animal Cruelty Offences in Victoria* found that between 2008 and 2017, Victoria Police prosecuted just under one-third of all animal cruelty charges.⁴²⁰ The most common animal

⁴¹² Ibid., cl 3.1.

⁴¹³ RSPCA Victoria, *Independent Review of the RSPCA Victoria Inspectorate*, 2016, <<https://rspcavic.org/services/inspectorate/independent-review>> accessed 08 November 2019.

⁴¹⁴ Neil Comrie, *Independent Review of the RSPCA Victoria Inspectorate: Transformation of the RSPCA Victoria Inspectorate*, report for RSPCA Victoria, Victoria, 2016, p. 10.

⁴¹⁵ Ibid.

⁴¹⁶ Ibid., p. 13.

⁴¹⁷ RSPCA Victoria, *Response to the Independent Review of RSPCA Victoria's Inspectorate Final Report*, 2016, p. 1.

⁴¹⁸ *Prevention of Cruelty to Animals Act 1986* (Vic) s 18.

⁴¹⁹ Ibid., ss 24G(3) and 24ZW.

⁴²⁰ Sentencing Advisory Council, *Animal Cruelty Offences in Victoria*, online, 2019, p. xiii.

cruelty offences recorded by Victoria Police were for ‘aggravated cruelty’ offences (39%). Victoria Police also recorded offences related to deliberate cruelty, causing or endangering pain and suffering, neglect-related offences, and other cruelty behaviours.⁴²¹ This data combines animal cruelty offences for domestic as well as commercial animals, with the exact proportion of each not being clear.

In Chapter 4, the Committee discusses the role Victoria Police also play in helping industry prepare for and respond to illegal activity by animal rights activists.

⁴²¹ Ibid., p. 21.

Appendix 1

About the Inquiry

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3	Richard Waddy
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7	Bryony Lepoidevin
8	Katherine Cain
9	Frances Prem
10	Brendan Rea
11	Evelyn Elvey
12	Dianne Crea
13	Jason Pincini
14	Timothy Kingma
15	Alana Bacon
16	Molly Illani
17	Penelope Hollonds
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19	Jake Ewings
20	Vanessa Wells
21	Danielle Reardon
22	Bill Baxter
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24	Luke Dunn
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26	Marlena Jachniewicz
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30	Andrew Postregna
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32	Heather Barnes
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40	Erica Code
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71	Victoria Sublette	109	CONFIDENTIAL
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84	Ian Arney	122	Adam Loudon
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152	Robert Stunden	189	David Evans
153	Melissa Tuliranta	190	Steven Arnold
154	Salome Argyropoulos	191	Ron Paynter
155	Ross and Bev Walker	192	David Rowbottom
156	Camille Hanson	193	Muhammad Khan Niazi
157	Susan Buckland	194	Jackie Checkley
158	Geoff Gooch	195	Peter and Robyn Sandy
159	Clare Southerland	196	Nic Murphy
160	Megan Milner	197	Patricia Kennedy
161	Cindy Rudman	198	Miriam Cooper
162	Kirsty Stone	199	Lisa Parker
163	Matthew Holt	200	Suzanne Teese
164	Leon Gross	201	Geoffrey Wade
165	Alan Payne	202	Mohiuddin Bhuiyan
166	Lara Flanagan	203	NAME WITHHELD
167	Peter Oddie	204	Maike Coates
168	Sarah Avery	205	Kate Allan
169	Ann Middleborough	206	Angela Edwards
170	Jackie Crothers	207	Jennie Lonsdale
171	Sue King	208	Denae Clow
172	Peter Helms	209	Megan Garside
173	Barara Fraser	210	Melanie Beach-Ross
		211	Melissa Murphy-Webster

212	Tony Webster	250	Lionel Dorothy Mitchell
213	CONFIDENTIAL	251	Diamond Valley Pork
214	Karen Dexter	252	Genni Marks
215	Philip Szepe	253	Ines Kostic
216	Stuart McClelland	254	Rochelle Van Heerden
217	Mark Wehner	255	Ryan Keppert
218	Andrew Spencer	256	Daniel Verrocchi
219	Peter Thompson	257	Kim Dutton
220	Kerri Nicholls	258	Nanda Nalluri
221	Jean and Slavko Dugec	259	Vicki Standish
222	Natalie Kopas	260	NAME WITHHELD
223	Penelope Hocking	261	Natalie Kellett
224	Moynes Shire Council	262	Linda Saggus
225	Brad Edwards	263	Renee Hasseldine
226	Lisa Harrison	264	CONFIDENTIAL
227	Leanne Wingad	265	NAME WITHHELD
228	Diamond Valley Egg Farm	266	Lyn Kellett
229	Marilyn Nuske	267	Glynn Jarrett
230	Mark Hillen	268	Brooke McGlashan
231	Tania Harrison	269	Ceallaigh MacCath-Moran
232	Nick Barton	270	NAME WITHHELD
233	Nuccia Femino	271	Jan Beer
234	Allan Campbell	272	Australian Dairy Farmers
235	Sharon Bush	273	Rick Bayne
236	Daniela Erasmus	274	Australian Chicken Growers Council
237	Emma Hakansson	275	Haley Soar
238	Ken Mander	276	CONFIDENTIAL
239	CONFIDENTIAL	277	Barry & Joan Lewis
240	Stephen Brand	278	John Gommans
241	Lisa Brand	279	Jan Heald
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243	Jodi Kirkby	281	CONFIDENTIAL
244	Robert Muller	282	NAME WITHHELD
245	Nigel Greenaway	283	Craig Henderson
246	Australian Meat Industry Council	284	Kerry McKinnon
247	Michael Kirby	285	Ritesh Mittal
248	Rhonda Patton	286	Gail Canning
249	Linda Larkins	287	Michael Fuery

288	Anna Kneen	326	Rosemary Biggins
289	Cori Nelson	327	Jacqui Stocks
290	Steven Arnold	328	Leah Whetton
291	Michelle Crilly	329	Melissa Blackburn
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293	Liam Milton-McGurk	331	Tony Levier
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295	Georgia Knight	333	Robyn Pike
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297	Sally O'Hoy	335	Joel McKenna
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299	Julieanne White	337	Frica Vernon
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301	The Animal Law Institute	339	Ara Cate
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304	Egg Farmers Australia	342	Roger Sawley
305	Tracey-Ann Layton	343	Sam McGrath
306	Michael Conroy	344	CONFIDENTIAL
307	Holly Sitters	345	NAME WITHHELD
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309	Carly Marks	347	Leanne Prestipino
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315	Matthew Ryan	353	Jessica Meteljan
316	Katrina Larsen	354	Humane Society International
317	Juliann Doherty	355	Andrea and Bruce Vallance
318	Rowena Sheppard	356	Jacquelyn Farragher
319	Amanda Beattie	357	LRVTA
320	Parkside Run	358	Jade Perry
321	Dana Kolsky	359	Dilan Fernando
322	Matthew Lunch	360	Wannon Region Dairy Branch of UDV
323	Simon Ramsay	361	Rosalie Triolo
324	Christina Plant	362	RSPCA
325	Angela Lowery	363	Melanie Sanderson

364	Sharon Bondy	401	Julie Sloan
365	Deniise Bierman	402	Caroline Hartley
366	Clementine Mazzotta	403	Marianne Carollo
367	Maggie Rose	404	Lee McKay
368	Craig Dwyer	405	Stephen Bacon
369	CONFIDENTIAL	406	Australian Farmers Federation
370	Diane Pearce	407	Karen Smith
371	Francesca Hunter	408	Australian Food Sovereignty Alliance
372	Beverly Moss	409	Victoria Pressler
373	Laura Shallue	410	Anne Makhijani
374	Meg Parkinson	411	Jack Bade
375	Sharon McMahon	412	Michael Gallagher
376	Melanie Ellis	413	Catherine Norman
377	Rachel Beauchesne	414	Conor Robinson
378	Lesley Mobilia	415	Adam Stolfo
379	Tracey Johnson	416	VFF Livestock Group
380	Natalie James	417	Neth Kudagama
381	Victorian Chicken Meat Council	418	CONFIDENTIAL
382	Jacqueline Rowe	419	Department of Jobs Precincts and Regions
383	Jacqueline Kyle	420	CONFIDENTIAL
384	Australian Chicken Meat Federation	421	Christine Hargreaves
385	Jason Naylor	422	Despina Handolias
386	Katelyn Fryer	423	Jhi Aitken
387	Madeline Gallagher	424	Law Institute of Victoria
388	Bretta Merifield	425	John and Margaret Millington
389	Shoba Nair	426	VFF United Dairy Farmers of Victoria
390	Australian Livestock and Property Agents Association	427	CONFIDENTIAL
391	Victorian Farmers Federation	428	Lisa Ryan
392	Helen Seta	429	Georgia Fraser
393	CONFIDENTIAL	430	Kylie Richmond
394	Rod Faudell	431	Joanne Brodski
395	Aussie Farms	432	Christine Andersen
396	Mark Baitis	433	Elizabeth Hope
397	Brian Sloan	434	Laura Murphy
398	Deborah Conroy	435	Connie Walker
399	VFF Intensive Industries Group	436	Nicki Jennings
400	David Leyden	437	Sarah Mathias
		438	Asanki Fernando

439	Lucy Stegley
440	Australian Deer Association
441	Lee O'Mahoney
442	Pete Gibson
443	Wannon Region Dairy Branch
444	Cameron Blewett
445	K McGarvie
446	Elise Morrison
447	Luke Davis
448	Jen Cresp
449	Douglas Leith
450	Jessica Rogers
451	Michayla Rogers
452	Cassandra Pollock
453	Yasmine Awad
454	Abby Zonino
455	Serena Urquhart
456	Bronwyn Currie
457	Mary Ann Gourlay
458	Animal Defenders Office
459	NAME WITHHELD
460	Cathy Delany
461	Amanda Shephard
462	Shanae Pastura
463	James Bush
464	Susie Hearder
465	Marie Pepper
466	Helen Jeges
467	Noah Hannibal
468	Naomi Adams
469	Charlotte Gallagher
470	Helen Duke
471	Gary Hall
472	Edgars Mission
473	Rhonda Ivanisevic
474	Oonagh Kilpatrick
475	Nichola Donovan
476	Jaqui Frigo-Korte
477	Judi Conneli
478	Melinda Ballard
479	Jessie Mullins-Baker
480	Emily Baxter
481	Robin Ramsay
482	Vegan Rising
483	Honami Yum
484	Sally Stephenson
485	Doug Nicholls
486	Cara Garrett
487	NAME WITHHELD
488	Charles Davis
489	Sue Johnson
490	Danielle May
491	Anita Valher
492	NAME WITHHELD
502	Charisma Judge
503	Sarah Cutting
504	Eileen Born
505	Ellana Clarke
506	Susan Hauswirth
Pro Forma submission A	
99	April Meddick
510	Deborah Clarke
511	Natasha Schneider
Pro Forma submission B	
298	Grace Rosevear
493	Karolyn Quinn
494	Patrick Cundall
495	Susan Lane
496	Amanda Brewer
497	Mackenzie Severns
498	Eleanor Wallace
499	Neena Love
500	Samantha Otter
501	Thomas Gregory

A1.2 Public Hearings

Tuesday 20 August 2019

Bairnsdale RSL, 2 Forge Creek Road, Bairnsdale

Name	Organisation
John Buxton	Buxton AG
Chris Nixon	-
Judy Leadoux	Leadoux Turkeys
Meg Parkinson	-
Graham Howell	Livestock and Rural Transporters Association of Victoria
Geoff Gooch	-

Wednesday 21 August 2019

Mercure Warragul, 23 Mason Street, Warragul

Name	Title	Organisation
Name Withheld	-	-
Patrick Hutchinson	CEO	Australian Meat Industry Council
John Gommans	-	Gippy Goat Farm
Name Withheld	-	-

Wednesday 4 September 2019

Legislative Council Committee Room, Parliament House, East Melbourne

Name	Title	Organisation
Associate Professor Carrie Freeman	-	Georgia State University
Chris Delforce	Executive Director	Aussie Farms
Jan Kendall	-	-
David Leyden	-	-
Pam Ahern	Founder and Director	Edgars Mission Sanctuary
Patty Mark	Founder	Animal Liberation Victoria
Nichola Donovan	-	-
Moiray Rayner	-	-
Mhairi Roberts	Animal Welfare Policy Manager	RSPCA Victoria
Jed Goodfellow	Science and Policy Team Lead	
Abby Zonino	-	-

Tuesday 17 September 2019

Lighthouse Theatre, 185 Timor St, Warrnambool

Name	Title	Organisation
Lisa Dwyer	-	-
Antony Ford	Executive Officer	Great South Coast Food and Fibre Council
Georgina Gubbins	Chair	
Katherine Cain	-	-
Danyel Cucinotta	-	LT's Egg Famr
Brian Ahmed	-	
Chris O'Keefe	Secretary	United Dairyfarmers of Victoria, Wannon Branch
Bernie Free	Member	
Oonagh Kilpatrick	Policy Councillor	
Simon Ramsay	-	-
Daniel Meade	Councillor	Moyne Shire Council
Jim Doukas	Councillor	
Ian Smith	Councillor	

Wednesday 18 September 2019

Horsham International Hotel, 118 Baillie St, Horsham

Name	Title	Organisation
Leonard Vallance	President, Livestock Council	Victorian Farmers Federation
Mark Wootton	-	-
Mark McDonald	Executive Officer	Australian Livestock Saleyard Association
Paul Christopher	Horsham Saleyard Manager	
Richard James	Naracoorte Saleyard Manager	
Sally Ison	-	
Daryl Bussell	CEO	Luv-a-Duck
John Millington	-	-

Monday 23 September 2019

Legislative Council Committee Room, Parliament House, East Melbourne

Name	Title	Organisation
Sally Fensling	Executive Director, Animal Welfare Victoria, and Agriculture Regulatory Policy	Agriculture Victoria
Michael Rosier	Acting Executive Director, Biosecurity Services, Biosecurity and Agriculture Services	
Dr Cameron Bell	Acting Chief Veterinary Officer, Biosecurity and Agriculture Services	
Associate Professor Andrew Robinson	Director	Centre for Excellence for Biosecurity Risk Analysis, Melbourne University
Mel Walker	Co-chair LIV Criminal Law Committee	Law Institute of Victoria
Professor Paul Hemsworth	-	Animal Welfare Science Centre, Melbourne University
Superintendent Peter Greaney	-	Victoria Police
David Jochinke	President	Victorian Farmers Federation
Stephen Sheridan	CEO	
Paul Mumford	President	United Dairyfarmers of Victoria

Tuesday 8 October 2019

Quality Hotel Gateway, 29-37 Ryley St, Wangaratta

Name
David Evans
Timothy Kingma
Bill Baxter
Nicola Fanning

A1.3 Site visits

Thursday 3 October 2019

Victorian Livestock Exchange, Pakenham

Name	Title	Organisation
Wayne Osborne	Managing Director	Victorian Livestock Exchange

Thursday 3 October 2019

R Radford and Sons, Warragul

Name	Title	Organisation
Paul	Foreman	R Radford and Sons

Monday 7 October 2019

Edgars Mission Sanctuary

Name	Title	Organisation
Pam Ahern	Founder and Director	Edgars Mission Sanctuary

Extract of proceedings

Legislative Council Standing Order 23.27(5) requires the Committee to include in its report all divisions on a question relating to the adoption of the draft report. All Members have a deliberative vote. In the event of an equality of votes, the Chair also has a casting vote.

The Committee divided on the following question during consideration of this report. Questions agreed to without division are not recorded in these extracts.

Mr Meddick moved, That the following text be inserted ‘The Committee notes that much of the information contained on the Aussie Farms Map is available via a Commonwealth Government Department website.’

The Committee divided.

Ayes	Noes
Mr Elasmr	Ms Bath
Ms Terpstra	Mrs McArthur
Mr Gepp	Mr Finn
Mr Barton	

Motion agreed to.

Mr Finn moved, That text be inserted after Mr Meddick’s addition to note that information on the department website was not given with a view to providing support to those wishing to harm farmers or their farms.

The Committee divided.

Ayes	Noes
Ms Bath	Mr Elasmr
Mrs McArthur	Ms Terpstra
Mr Finn	Mr Gepp
	Mr Barton

Motion negatived.

Mr Meddick moved, That the following text in 1.8.2 be deleted: ‘direct action ‘liberating’ of animals, considered to be theft, that is often publicised, as opposed to clandestine actions’

The Committee divided.

Ayes	Noes
Ms Terpstra	Mr Elasmarr
	Mr Finn
	Mr Gepp
	Ms Bath
	Mr Barton
	Mrs McArthur

Motion negatived.

Ms Bath moved, That in section 2.1 the words ‘search for evidence of animal cruelty and what they find’ be removed and the words ‘use to further their agenda’ be inserted.

The Committee divided.

Ayes	Noes
Mr Finn	Mr Elasmarr
Ms Bath	Ms Terpstra
Mrs McArthur	Mr Gepp
	Mr Barton

Motion negatived.

Mr Finn moved, that section heading 2.2 be amended to add the words ‘(animal theft)’ after the words open rescue.

The Committee divided.

Ayes	Noes
Mr Finn	Mr Elasmarr
Ms Bath	Ms Terpstra
Mrs McArthur	Mr Gepp
	Mr Barton

Motion negatived.

Ms Bath Moved moved, in Section 2.2 the word 'believe' be deleted and insert in its place 'claim'.

The Committee divided.

Ayes	Noes
Mr Finn	Mr Elasmr
Ms Bath	Ms Terpstra
Mrs McArthur	Mr Gepp
	Mr Barton

Motion negatived.

Ms Bath moved, That in Section 2.2 the word 'pioneered' be deleted and insert in its place the word 'established'.

The Committee divided.

Ayes	Noes
Mr Finn	Ms Terpstra
Ms Bath	
Mrs McArthur	
Mr Gepp	
Mr Barton	
Mr Elasmr	

Motion agreed to.

Ms Bath moved, That in section 2.2 text be inserted stating that a goat did not have a life threatening condition.

The Committee divided.

Ayes	Noes
Mr Finn	Mr Elasmr
Ms Bath	Ms Terpstra
Mrs McArthur	Mr Gepp
	Mr Barton

Motion negatived.

Ms Bath moved, That in section 2.3 the word ‘believe’ be deleted and in its place insert the word ‘state’.

The Committee divided.

Ayes	Noes
Mr Finn	Mr Elasmr
Ms Bath	Ms Terpstra
Mrs McArthur	Mr Gepp
	Mr Barton

Motion negatived.

Ms Bath moved, that in section 2.3 the text ‘improving animal welfare standards across the industry’ be deleted and in its place insert ‘meat free diet’.

The Committee divided.

Ayes	Noes
Mr Finn	Mr Elasmr
Ms Bath	Ms Terpstra
Mrs McArthur	Mr Gepp
	Mr Barton

Motion negatived.

Mrs McArthur moved, That in section 2.3 the text ‘improving animal welfare standards across the industry’ be deleted and in its place insert ‘ending the use of animals for meat and fibre production’.

The Committee divided.

Ayes	Noes
Mr Finn	Mr Elasmr
Ms Bath	Ms Terpstra
Mrs McArthur	Mr Gepp
	Mr Barton

Motion negatived.

Ms Bath moved, That in section 2.3 the text ‘to the issue of animal welfare’ be deleted.

The Committee divided.

Ayes	Noes
Mr Finn	Mr Elasmarr
Ms Bath	Ms Terpstra
Mrs McArthur	Mr Gepp
	Mr Barton

Motion negatived.

Ms Bath moved, That in section 2.3 the text ‘Many activists also contend that covert action on farms is acceptable because farmers are unaware when it is happening ’ be deleted.

The Committee divided.

Ayes	Noes
Mr Finn	Mr Elasmarr
Ms Bath	Ms Terpstra
Mrs McArthur	Mr Gepp
	Mr Barton

Motion negatived.

Ms Bath moved, That in section 2.5 a new dot point be inserted to say ‘includes illegal activities’.

The Committee divided.

Ayes	Noes
Mr Finn	Mr Elasmarr
Ms Bath	Ms Terpstra
Mrs McArthur	Mr Gepp
	Mr Barton

Motion negatived.

Ms Bath moved, That in section 2.5 the text ‘their employees’ be inserted.

The Committee divided.

Ayes	Noes
Mr Elasmr	Ms Terpstra
Mr Gepp	
Mr Barton	
Mr Finn	
Ms Bath	
Mrs McArthur	

Motion agreed to.

Mr Meddick moved, That in section 2.5, the word ‘some’ be deleted and in its place insert the word ‘many’.

The Committee divided.

Ayes	Noes
Ms Terpstra	Mr Elasmr
	Mr Gepp
	Mr Barton
	Mr Finn
	Ms Bath
	Mrs McArthur

Motion negatived.

Mr Meddick moved, That in section 2.6.1, the text ‘The Committee also heard that poaching of commercial livestock by non-activists may well pose a larger threat than animal activist activities.’ be inserted.

The Committee divided.

Ayes	Noes
Ms Terpstra	Mr Elasmr
	Mr Gepp
	Mr Barton
	Ms Bath
	Mrs McArthur
	Mr Finn

Motion negatived.

Ms Bath moved, That in section 3.2.1, extra evidence regarding mental health be inserted.

The Committee divided.

Ayes	Noes
Mr Finn	Mr Elasmarr
Ms Bath	Ms Terpstra
Mrs McArthur	Mr Gepp
	Mr Barton

Motion negatived.

Mr Meddick moved, That in section 3.2.1, the text ‘She said that that the number of mental health clients in south-west Victoria (per 1000 population) was double the statewide average and that unfair criticism risks exacerbating this problem.’ be deleted.

The Committee divided.

Ayes	Noes
Ms Terpstra	Mr Elasmarr
	Mr Gepp
	Mr Barton
	Mr Finn
	Ms Bath
	Mrs McArthur

Motion negatived.

Ms Bath moved, That in section 3.4.2 the text ‘Animal rights activists such as Mr Delforce from Aussie Farms counter this concern by stating that the slaughter of livestock is a far larger threat to their health and wellbeing than any stress caused by mishandling.’ be deleted.

The Committee divided.

Ayes	Noes
Mr Finn	Mr Elasmarr
Ms Bath	Ms Terpstra
Mrs McArthur	Mr Gepp
	Mr Barton

Motion negatived.

Ms Bath moved, That in section 3.5.1 that the text ‘Mr John Gommans gave evidence that through harassment of his staff and social media targeting of his customers he was forced to close the Gippy Goat Cafe which had a turnover of \$800 000’ be inserted.

The Committee divided.

Ayes	Noes
Mr Finn	Mr Elasmarr
Ms Bath	Ms Terpstra
Mrs McArthur	Mr Gepp
	Mr Barton

Motion negatived.

Ms Terpstra moved, That in section 3.5.1 that the text ‘is unrealistic’ be deleted and in its place insert ‘is not feasible’.

The Committee divided.

Ayes	Noes
Mr Elasmarr	Mr Finn
Ms Terpstra	Ms Bath
Mr Gepp	Mrs McArthur
Mr Barton	

Motion agreed to.

Mr Meddick moved, That in section 3.5.1 that text and a quote from Mr Delforce be inserted relating to the view that animal agriculture is detrimental to the environment and the economy be inserted.

The Committee divided.

Ayes	Noes
Ms Terpstra	Mr Elasmarr
	Mr Gepp
	Mr Barton
	Mr Finn
	Ms Bath
	Mrs McArthur

Motion negatived.

Ms Terpstra moved, That in section 4.2.5 the text ‘It is unclear based on the evidence received by the Committee as to whether Aussie Farms has committed an offence under s 321G of the Act.’ be deleted.

The Committee divided.

Ayes	Noes
Mr Elasmr	Mr Finn
Ms Terpstra	Ms Bath
Mr Gepp	Mrs McArthur
Mr Barton	

Motion agreed to.

Ms Bath moved, That in section 4.3.2, the text ‘industry stakeholders and broader farming community’ be added.

The Committee divided.

Ayes	Noes
Mr Finn	Ms Terpstra
Ms Bath	
Mrs McArthur	
Mr Gepp	
Mr Barton	
Mr Elasmr	

Motion agreed to.

Mr Meddick moved, That in section 4.3.2 the word ‘some’ be added.

The Committee divided.

Ayes	Noes
Mr Elasmr	Mr Finn
Ms Terpstra	Ms Bath
Mr Gepp	Mrs McArthur
Mr Barton	

Motion agreed to.

Ms Bath moved, That in section 4.4 that text be added outlining that no new Victoria Police personnel would be attached to the Farm Crime unit.

The Committee divided.

Ayes	Noes
Mr Finn	Ms Terpstra
Ms Bath	
Mrs McArthur	
Mr Elasmr	
Mr Gepp	
Mr Barton	

Motion agreed to.

Ms Bath moved, That in section 4.6 the text ‘how sincere the aims of those committing the acts’ be deleted and in its place insert the text ‘intentions of those committing the acts’.

The Committee divided.

Ayes	Noes
Mr Finn	Mr Elasmr
Ms Bath	Ms Terpstra
Mrs McArthur	Mr Gepp
Mr Barton	

Motion agreed to.

Ms Bath moved, That in section 4.6 the text ‘when prosecuted’ be inserted.

The Committee divided.

Ayes	Noes
Mr Finn	Mr Elasmr
Ms Bath	Ms Terpstra
Mrs McArthur	Mr Gepp
	Mr Barton

Motion negatived.

Ms Terpstra moved, That in section 4.6 the text ‘is against the law’ be removed.

The Committee divided.

Ayes	Noes
Ms Terpstra	Mr Elasmr
	Mr Gepp
	Mr Barton
	Mr Finn
	Ms Bath
	Mrs McArthur

Motion negatived.

Ms Terpstra moved, That in section 4.6 the text ‘of trespass’ be removed.

The Committee divided.

Ayes	Noes
Ms Terpstra	Mr Elasmr
	Mr Gepp
	Mr Barton
	Mr Finn
	Ms Bath
	Mrs McArthur

Motion negatived.

Mr Meddick moved, That in section 4.6 the words ‘all’ and ‘with or’ be inserted.

The Committee divided.

Ayes	Noes
Mr Elasmr	Mr Finn
Ms Terpstra	Ms Bath
Mr Gepp	Mrs McArthur
Mr Barton	

Motion agreed to.

Ms Bath moved, That section 5.6 be removed.

The Committee divided.

Ayes	Noes
Mr Finn	Mr Elasmr
Ms Bath	Ms Terpstra
Mrs McArthur	Mr Gepp
	Mr Barton

Motion negatived.

Ms Bath moved, That section 6.7.2 be deleted and a new section be included titled CCTV monitoring and outlining some of the evidence received from industry groups regarding the issue of CCTV in the workplace.

The Committee divided.

Ayes	Noes
Mr Finn	Mr Elasmr
Ms Bath	Ms Terpstra
Mrs McArthur	Mr Gepp
	Mr Barton

Motion negatived.

Mr Gepp moved, That Chapter 5 be adopted and stand part of the report.

The Committee divided.

Ayes	Noes
Mr Elasmr	Mr Finn
Ms Terpstra	Ms Bath
Mr Gepp	Mrs McArthur
Mr Barton	

Motion agreed to.

Mr Gepp moved, That Finding 1 be adopted.

The Committee divided.

Ayes	Noes
Mr Finn	Ms Terpstra
Ms Bath	
Mrs McArthur	
Mr Elasmr	
Mr Gepp	
Mr Barton	

Motion agreed to.

Mrs McArthur moved, That Finding 2 be adopted.

The Committee divided.

Ayes	Noes
Mr Finn	Ms Terpstra
Ms Bath	
Mrs McArthur	
Mr Elasmr	
Mr Gepp	
Mr Barton	

Motion agreed to.

Mrs McArthur moved, That Finding 4 be adopted.

The Committee divided.

Ayes	Noes
Mr Finn	Ms Terpstra
Ms Bath	
Mrs McArthur	
Mr Elasmr	
Mr Gepp	
Mr Barton	

Motion agreed to.

Mr Gepp moved, That Finding 8 be adopted.

The Committee divided.

Ayes	Noes
Mr Elasmr	Mr Finn
Ms Terpstra	Ms Bath
Mr Gepp	Mrs McArthur
Mr Barton	

Motion agreed to.

Mr Finn moved, That new Finding 8 'Animal agriculture has a right to farm' be inserted.

The Committee divided.

Ayes	Noes
Mr Finn	Mr Elasmr
Ms Bath	Ms Terpstra
Mrs McArthur	Mr Gepp
	Mr Barton

Motion negatived.

Mr Gepp moved, That Recommendation 1 be adopted.

The Committee divided.

Ayes	Noes
Mr Elasmr	Mr Finn
Ms Terpstra	Ms Bath
Mr Gepp	Mrs McArthur
Mr Barton	

Motion agreed to.

Ms Bath moved, That Recommendation 2 be amended to include the text ‘and trespass’.

The Committee Divided.

Ayes	Noes
Mr Finn	Mr Elasmarr
Ms Bath	Ms Terpstra
Mrs McArthur	Mr Gepp
	Mr Barton

Motion negatived.

Mr Gepp moved, That Recommendation 2 be adopted.

The Committee divided.

Ayes	Noes
Mr Elasmarr	Mr Finn
Ms Terpstra	Ms Bath
Mr Gepp	Mrs McArthur
Mr Barton	

Motion agreed to.

Ms Bath moved, That Recommendation 3 be removed and new a new Recommendation 3 be inserted ‘That the Victorian Government provide monetary assistance to farmers wishing to develop or update biosecurity management plans’.

The Committee divided.

Ayes	Noes
Mr Finn	Mr Elasmarr
Ms Bath	Ms Terpstra
Mrs McArthur	Mr Gepp
	Mr Barton

Motion negatived.

Mr Gepp moved, That Recommendation 3 be adopted.

The Committee divided.

Ayes	Noes
Mr Elasmr	Mr Finn
Ms Terpstra	Ms Bath
Mr Gepp	Mrs McArthur
Mr Barton	

Motion agreed to.

Ms Terpstra moved, That in Recommendation 4 the text ‘In cases of trespass, it should clear that there is no requirement for business owners to have explained the biosecurity management plan to those trespassing.’ be removed.

The Committee divided.

Ayes	Noes
Ms Terpstra	Mr Elasmr
	Mr Gepp
	Mr Barton
	Mr Finn
	Ms Bath
	Mrs McArthur

Motion negatived.

Mr Gepp moved, That Recommendation 5 be adopted.

The Committee divided.

Ayes	Noes
Mr Finn	Ms Terpstra
Ms Bath	
Mrs McArthur	
Mr Elasmr	
Mr Gepp	
Mr Barton	

Motion agreed to.

Ms Bath moved, That Recommendation 6 be removed and in its place a new Recommendation 6 ‘That the Victorian Government investigate statutory minimum sentences for trespass and theft with a view to implementing statutory minimum sentences when a threshold of physical or financial damage has been inflicted.’

The Committee divided.

Ayes	Noes
Mr Finn	Mr Elasmr
Ms Bath	Ms Terpstra
Mrs McArthur	Mr Gepp
	Mr Barton

Motion negatived.

Ms Terpstra moved, That in Recommendation 6 the words ‘The Victorian Government should also advocate for a national approach to relevant trespass laws through the Council of Attorneys General.’ be removed.

The Committee divided.

Ayes	Noes
Ms Terpstra	Mr Elasmr
	Mr Gepp
	Mr Barton
	Mr Finn
	Ms Bath
	Mrs McArthur

Motion negatived.

Mr Gepp moved, That Recommendation 6 be adopted.

The Committee divided.

Ayes	Noes
Mr Elasmr	Mr Finn
Ms Barton	Ms Bath
Mr Gepp	Mrs McArthur
	Ms Terpstra

Motion negatived.

Ms Bath moved, That in Recommendation 9 [Recommendation 8 in the Final Report] the text ‘This would help the public better understand the approach regulators take regarding breaches of animal welfare regulations and standards’ be removed

The Committee divided.

Ayes	Noes
Mr Finn	Mr Elasmr
Ms Bath	Ms Terpstra
Mrs McArthur	Mr Gepp
	Mr Barton

Motion negatived.

Ms Bath moved, That Recommendation 10 [Recommendation 9 in the Final Report] be removed and a new Recommendation 10 ‘That the Victorian Government expedite the process for the agreement of the Australian Animal Welfare Standard and Guidelines as a priority for the Australian Agricultural Ministers Council’ be inserted.

The Committee divided.

Ayes	Noes
Mr Finn	Mr Elasmr
Ms Bath	Ms Terpstra
Mrs McArthur	Mr Gepp
	Mr Barton

Motion negatived.

Ms Gepp moved, That Recommendation 10 be adopted.

The Committee divided.

Ayes	Noes
Mr Elasmr	Mr Finn
Ms Terpstra	Ms Bath
Mr Gepp	Mrs McArthur
Mr Barton	

Motion agreed to.

Ms Bath moved, That in Recommendation 11 [Recommendation 10 in the Final Report] the text ‘and with the support of relevant peak bodies’ be inserted.

The Committee divided.

Ayes	Noes
Mr Finn	Mr Elasmarr
Ms Bath	Ms Terpstra
Mrs McArthur	Mr Gepp
	Mr Barton

Motion negatived.

Mr Meddick moved, That in Recommendation 11 [Recommendation 10 in the Final Report] the text ‘all codes of practice should be reviewed after 3 years’ be inserted.

The Committee divided.

Ayes	Noes
Ms Terpstra	Mr Elasmarr
Mr Barton	Mr Gepp
	Mr Finn
	Ms Bath
	Mrs McArthur

Motion negatived.

Mr Gepp moved, That Recommendation 11 [Recommendation 10 in the Final Report] be adopted.

The Committee divided.

Ayes	Noes
Mr Elasmarr	Mr Finn
Ms Terpstra	Ms Bath
Mr Gepp	Mrs McArthur
Mr Barton	

Motion agreed to.

Ms Bath moved, That in Recommendation 13, the text ‘where supported by the relevant industry peak bodies’ be inserted.

The Committee divided.

Ayes	Noes
Mr Finn	Mr Elasmr
Ms Bath	Ms Terpstra
Mrs McArthur	Mr Gepp
	Mr Barton

The Chair having used his casting vote determined the motion was negatived.

Ms Bath moved, That Recommendation 14 be removed, and new Recommendation 14 ‘That following consultation with industry, unions and other relevant stakeholders, the Victorian Government provide monetary assistance for voluntary adoption of closed-circuit television cameras in Victorian abattoirs’.

The Committee divided.

Ayes	Noes
Mr Finn	Mr Elasmr
Ms Bath	Ms Terpstra
Mrs McArthur	Mr Gepp
	Mr Barton

Motion negatived.

Mr Gepp moved, That in Recommendation 14 the word ‘mandate’ be replaced with the words ‘consider the implementation of’.

The Committee divided.

Ayes	Noes
Mr Elasmr	Mr Finn
Ms Terpstra	Ms Bath
Mr Gepp	Mrs McArthur
Mr Barton	

Motion agreed to.

Mr Gepp moved, That Recommendation 14 be agreed to.

The Committee divided.

Ayes	Noes
Mr Elasmr	Mr Finn
Ms Terpstra	Ms Bath
Mr Gepp	Mrs McArthur
Mr Barton	

Motion agreed to.

Ms Bath moved, That Recommendation 15 be amended to insert a new section '(b) That Agriculture Victoria conduct an audit of the responses of police and the judiciary to instances of trespass and theft by animal activists.

The Committee divided.

Ayes	Noes
Mr Finn	Mr Elasmr
Ms Bath	Ms Terpstra
Mrs McArthur	Mr Gepp
	Mr Barton

Motion negatived.

Ms Gepp moved, That Recommendation 15 be adopted.

The Committee divided.

Ayes	Noes
Mr Elasmr	Mr Finn
Ms Terpstra	Ms Bath
Mr Gepp	Mrs McArthur
Mr Barton	

Motion agreed to.

Ms Bath moved, That new Recommendation 6 ‘That the Victorian Government requests the Judicial College of Victoria to provide education and training magistrates and judges about consequences and impacts of farm trespass and animal activism, particularly those undertaking circuit work in regional courts’ be inserted.

The Committee divided.

Ayes	Noes
Mr Finn	Mr Elasmr
Ms Bath	Ms Terpstra
Mrs McArthur	Mr Gepp
	Mr Barton

Motion negatived.

Mr Finn moved, That new Recommendation 7 ‘That the Victorian Government legislates to re-affirm the right of farmers to use animals in agriculture’ be inserted.

The Committee divided.

Ayes	Noes
Mr Finn	Mr Elasmr
Ms Bath	Ms Terpstra
Mrs McArthur	Mr Gepp
	Mr Barton

Motion negatived.

Mr Meddick moved, That new Recommendation 13 [Recommendation 12 in the Final Report] ‘That the Victorian Government conduct an examination of alternative practices used around the world in the treatment of live male chicks in the egg industry and the use of blunt force trauma on goats, pigs, and cows with a view to adopting ‘world’s best practice’. These standards should be higher than the existing codes of practice in the *Prevention of Cruelty to Animals Act 1986*.’ Be inserted.

The Committee divided.

Ayes	Noes
Mr Elasmr	Mr Finn
Ms Terpstra	Ms Bath
Mr Gepp	Mrs McArthur
Mr Barton	

Motion agreed to.

Mr Gepp moved, That the Final Report, as amended, be adopted.

The Committee divided.

Ayes	Noes
Mr Elasmr	Mr Finn
Ms Terpstra	Ms Bath
Mr Gepp	Mrs McArthur
Mr Barton	

Motion agreed to.

Minority reports

LIBERAL AND NATIONALS MEMBERS' MINORITY REPORT

Inquiry into the Impact of Animal Rights Activism on Victorian Agriculture.

1.1 Members' view

This Minority Report represents the position of the Liberal and Nationals Members of the *Inquiry into the Impact of Animal Rights Activism on Victorian Agriculture*. Liberal and Nationals members are unable to support the final report of the Inquiry for the following reasons:

- i) The Committee Report is biased in that it gives undue attention to the motivations of animal activists, conveying an impression of support towards the illegal actions of animal activists;
- ii) The Committee Report does not acknowledge that the ultimate goal of most animal activist activity is not improving animal welfare outcomes in livestock farming but to end livestock farming altogether;
- iii) The Committee Report has been influenced by the Andrews Labor Government, evidenced by the support shown towards animal activists by Government Members;
- iv) The Committee Report gives credence to the claims of animal activists in regard to legal farming practices being cruel;
- v) The Committee Report does not adequately discuss or acknowledge the impact of animal rights activism on Victorian Agriculture;
- vi) The Committee Report deviated from the Terms of Reference and failed to respect the intentions of Parliament in establishing the Inquiry;
- vii) Recommendation 1 provides additional legal protections for animal activists that illegally trespass on farming land;
- viii) Recommendation 10, 12, and 14 are outside the Terms of Reference, were not adequately canvassed with industry representatives throughout the course of the Inquiry and do not respect the voice of industry;
- ix) The Committee Report does not propose recommendations that adequately ensure animal activists are appropriately punished for illegal activities, nor protect farmers from these illegal animal activist activities;
- x) The Committee Report does not acknowledge Australia's strong animal welfare laws and our international reputation as leaders in animal welfare; and
- xi) The Committee Report does not acknowledge that the overwhelming majority of farmers do the right thing.

1.2 Terms of Reference

On 1 May 2019, the Legislative Council resolved that the Economy and Infrastructure Committee inquire into, consider and report, by Thursday, 28 November 2019, on the effectiveness of legislation and other measures to prevent and deter activities by unauthorised persons on agricultural and associated industries and in particular, the Committee should –

1. consider –
 - a. the type and prevalence of unauthorised activity on Victorian farms and related industries, and the application of existing legislation;
 - b. the workplace health and safety and biosecurity risks, and potential impacts of animal activist activity on Victorian farms, to Victoria’s economy and international reputation;
 - c. animal activists’ compliance with the Livestock Disease Control Act 1994, Livestock Management Act 2010, and the Prevention of Cruelty to Animals Act 1986;
 - d. the civil or criminal liability of individuals and organisations who promote or organise participation in unauthorised animal activism activities;
 - e. analyse the incidences and responses of other jurisdictions in Australia and internationally; and
 - f. provide recommendations on how the Victorian Government and industry could improve protections for farmers’ privacy, businesses, and the integrity of our biosecurity system and animal welfare outcomes, whether through law reform or other measures.

On 13 August 2019, the Legislative Council agreed to a motion extending the reporting date for the Inquiry’s final report from 28 November 2019 to 1 February 2020.

1.3 Recommendation Summary

COMMITTEE RECOMMENDATIONS	MINORITY RECOMMENDATIONS
<p>RECOMMENDATION 1: That in the context of the review of the <i>Prevention of Cruelty to Animals Act 1986</i> the Victorian Government consider the need to codify public interest exemptions in the <i>Surveillance Devices Act 1999</i>.</p>	<p>MINORITY RECOMMENDATION 1: <i>Strongly Oppose.</i></p>
<p>RECOMMENDATION 2: That the Victorian Government instruct relevant regulatory bodies to collect data that distinguishes between livestock theft committed by animal rights activists and livestock theft committed by non-activists. This data should then inform policy development in this area.</p>	<p>MINORITY RECOMMENDATION 2: <i>That the Victorian Government instructs relevant regulatory bodies to collect data that distinguishes between livestock theft and trespass committed by animal rights activists and livestock theft and trespass committed by non-activists. This data should then inform policy development in this area.</i></p>
<p>RECOMMENDATION 3: That Agriculture Victoria conduct an audit of the number of biosecurity management plans in place in animal agriculture businesses in Victoria. The Victorian Government should follow up this audit with assistance to enable those businesses without one to implement a biosecurity management plan.</p>	<p>MINORITY RECOMMENDATION 3: <i>That the Victorian Government provide monetary assistance to farmers wishing to develop or update biosecurity management plans.</i></p>
<p>RECOMMENDATION 4: That the Victorian Government review the <i>Livestock Disease Control Act 1994</i> with a view to the creation of an offence for all visitors/trespassers non-compliance with a biosecurity management plan, including a requirement that all visitors/trespassers must comply with plans. In cases of trespass, it should be clear that there is no requirement for business owners to have explained the biosecurity management plan to those trespassing</p>	<p>MINORITY RECOMMENDATION 4: <i>Support.</i></p>
<p>RECOMMENDATION 5: That the proposed new biosecurity offence include an on-the-spot fine, similar to the New South Wales model, for non-compliance with biosecurity management plans.</p>	<p>MINORITY RECOMMENDATION 5: <i>Support.</i></p>
<p>RECOMMENDATION 6: That Agriculture Victoria display online information about animal agriculture standard practices and related legislation and regulations.</p>	<p>MINORITY RECOMMENDATION 6: <i>Support.</i></p>
<p>RECOMMENDATION 7: That Agriculture Victoria and PrimeSafe work with industry to collect examples of benchmark, high-quality animal welfare and biosecurity activities in animal agriculture to better inform the community of agricultural practices.</p>	<p>MINORITY RECOMMENDATION 7: <i>Support.</i></p>

<p>RECOMMENDATION 8: As a continuation of Recommendation 6, that Agriculture Victoria make information about the ‘compliance continuum’ more accessible on its website. This would help the public better understand the approach regulators take regarding breaches of animal welfare regulations and standards.</p>	<p>MINORITY RECOMMENDATION 8: As a continuation of Recommendation 6, that Agriculture Victoria make information about the ‘compliance continuum’ more accessible on its website. This would help the public better understand the approach regulators take regarding breaches of animal welfare regulations and standards.</p>
<p>RECOMMENDATION 9: That the Victorian Government express its support to the Commonwealth Government for the creation of an Australian Commission for Animal Welfare, in order to expedite the process for the agreement of the Australian Animal Welfare Standards and Guidelines.</p>	<p>MINORITY RECOMMENDATION 9: That the Victorian Government encourage the Agriculture Minister’s Forum to expedite the process for the development of the Australian Animal Welfare Standard and Guidelines.</p>
<p>RECOMMENDATION 10: That the Victorian Government, in the absence of approved Australian Animal Welfare Standards and Guidelines incorporate existing animal welfare elements of industry quality assurance schemes into new codes of practice as part of its modernisation of the <i>Prevention of Cruelty to Animals Act 1986</i>.</p>	<p>MINORITY RECOMMENDATION 10: That the Victorian Government, in the absence of approved Australian Animal Welfare Standards and Guidelines and with the support of the relevant industry peak body, incorporate existing animal welfare elements of industry quality assurance schemes into new codes of practice as part of its modernisation of the <i>Prevention of Cruelty to Animals Act 1986</i>.</p>
<p>RECOMMENDATION 11: That the Victorian Government consider its modernisation of the <i>Prevention of Cruelty to Animals Act 1986</i> to be a matter of priority.</p>	<p>MINORITY RECOMMENDATION 11: Support.</p>
<p>RECOMMENDATION 12: That the Victorian Government conduct an examination of alternative practices used around the world in the treatment of live male chicks in the egg industry and the use of blunt force trauma on goats, pigs, and cows with a view of adopting ‘world’s best’ practice. These standards should be higher than the existing codes of practice in the <i>Prevention of Cruelty to Animals Act 1986</i>.</p>	<p>MINORITY RECOMMENDATION 12: Oppose.</p>
<p>RECOMMENDATION 13: That any new codes of practice in the <i>Prevention of Cruelty to Animals Act 1986</i> include appropriate penalties for non-compliance.</p>	<p>MINORITY RECOMMENDATION 13: Support.</p>
<p>RECOMMENDATION 14: That following consultation with industry, unions and other relevant stakeholders, the Victorian Government consider the implementation of closed-circuit television cameras in Victorian abattoirs with a legislative model similar to the <i>Mandatory Use of Closed-Circuit Television in Slaughterhouses (England) Regulations 2018</i>.</p>	<p>MINORITY RECOMMENDATION 14: That following consultation with industry, unions and other relevant stakeholders, the Victorian Government provide monetary assistance for voluntary adoption of closed-circuit television cameras in Victorian abattoirs.</p>

<p>RECOMMEDATION 15: That Agriculture Victoria conduct an audit of its responses to substantiated animal welfare complaints in 2019 to determine if the appropriate action was taken in each case. The results of the audit should be published on Agriculture Victoria’s website. The results should be deidentified to ensure no breach of privacy occurs.</p>	<p>MINORITY RECOMMENDATION 15:</p> <p>a) <i>That Agriculture Victoria conduct an audit of its responses to substantiated animal welfare complaints in 2019 to determine if the appropriate action was taken in each case. The results of the audit should be published on Agriculture Victoria’s website. The results should be deidentified to ensure no breach of privacy occurs.</i></p> <p>b) <i>That the appropriate authority(ies) conduct an audit(audits) of the responses of police and the judiciary to instances of trespass and theft by animal activists.</i></p>
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1.3.1 Additional Recommendations

MINORITY RECOMMENDATION 16: That the Victorian Government requests the Judicial College of Victoria to provide education and training to magistrates and judges about consequences and impacts of farm trespass and animal activism, particularly those undertaking circuit work in regional courts.

MINORITY RECOMMENDATION 17: That the Victorian Government investigate statutory minimum penalties for trespass and theft with a view to implementing statutory minimum penalties when a threshold of physical or financial damage has been inflicted.

MINORITY RECOMMENDATION 18: That the Victorian Government legislates to re-affirm the right of farmers to use animals in agriculture.

1.4 Comments on Recommendations

1.4.1 **RECOMMENDATION 1:** That in the context of the review of the *Prevention of Cruelty to Animals Act 1986* the Victorian Government consider the need to codify public interest exemptions in the *Surveillance Devices Act 1999*.

MINORITY RECOMMENDATION 1: Oppose the Committee’s recommendation.

Rationale

Liberal and Nationals Members are disappointed that Government Members have chosen to use the Inquiry as an opportunity to recommend legislative protections for animal activists that illegally trespass on farms or businesses to install surveillance equipment.

Recommendation 1 does not fall within the Terms of Reference. The Terms of Reference *part f* requests the Committee to, *provide recommendations on how the Victorian*

Government and industry could improve protections for farmers' privacy, businesses, and the integrity of our biosecurity system and animal welfare outcomes. Part f requires the Committee to give consideration to all of these factors in any recommendations that are made. Recommendation 1 is focused solely on perceived animal welfare outcomes at great expense to farmers' privacy, failing to satisfy the intention of *part f*.

By making this recommendation the Committee has either ignorantly or consciously accepted the argument of animal activists that their sole goal is to improve animal welfare outcomes. Improving animal welfare outcomes on farms is clearly not the primary agenda of animal activists. During the hearings, the Inquiry heard from numerous activists who declared their desire to bring an end to the animal agriculture industry in totality.

For instance, when asked whether she would “*prefer to see no animal meat production*” and for “*all of us to be on a plant-based diet*”, Animal Liberation Victoria Founder, Patricia Mark said “*absolutely.*”¹

Chris Delforce of Aussie farms said:

As my personal ideal world, we would not be breeding and killing animals when we can live perfectly happily and healthily without doing so.²

David Leyden said:

I think that the Government should impose a tax on meat products, particularly because animal agriculture is the leading cause of deforestation and the number one driver of climate change, and climate change is going to impact us all sooner rather than later.³

I would like to see the Government assist farmers' transition to more ethical systems of food production and for the Government to invest in R and D for plant-based meat substitutes and things that people would like to eat in place of animals.⁴

Jan Kendall said:

Do I believe they should be stopped (farming animals)? In my dreams, perhaps yes, because it would end this cruelty, but I think it is going to happen anyway.⁵

Ms Patricia Mark, Founder, Animal Liberation Victoria:

And with all our taxes, I know that is how I want my taxes to be used—to help these farmers to transition into a more sustainable and definitely more ethical and more peaceful way of life.⁶

¹ Patricia Mark, Founder, Animal Liberation Victoria, public hearing, Melbourne, 4 September 2019, *Transcript of Evidence*, p. 34.

² Chris Delforce, Executive Director, Aussie Farms, public hearing, Melbourne, 4 September 2019, *Transcript of Evidence*, p. 11.

³ David Leyden, public hearing, Melbourne, 4 September 2019, *Transcript of Evidence*, p. 26.

⁴ *Ibid*, p. 27.

⁵ Jan Kendall, public hearing, Melbourne, 4 September 2019, *Transcript of Evidence*, p. 19.

⁶ Patricia Mark, Founder, Animal Liberation Victoria, public hearing, Melbourne, 4 September 2019, *Transcript of Evidence*, p. 39.

Nichola Donovan said:

I do think it is quite inevitable that humans will have to move away from killing animals, because humans need to move away from violence.⁷

It (animal agriculture) will end, I believe. It is inevitable⁸

Abby Zonino said:

Animals are not property, objects or means for a profit; they are living, sentient beings who want to experience joy and have the ability to live their lives free from dominion and exploitation. They create lifelong bonds with their friends and family members and are far emotionally superior to human animals.⁹

The Liberal and Nationals Members of the Committee have concluded that animal activists are driven primarily by a desire to end the practice of farming animals, a fact inadequately considered in Chapter 5 of the Report.

1.4.2 RECOMMENDATION 2: That the Victorian Government instruct relevant regulatory bodies to collect data that distinguishes between livestock theft committed by animal rights activists and livestock theft committed by non-activists. This data should then inform policy development in this area.

MINORITY RECOMMENDATION 2: That the Victorian Government instructs relevant regulatory bodies to collect data that distinguishes between livestock theft **and trespass** committed by animal rights activists and livestock theft **and trespass** committed by non-activists. This data should then inform policy development in this area.

Rationale

Liberal and Nationals Members sought to make sensible amendments to Recommendation 2 to ensure that the desired data was collected in cases of on-farm trespass in addition to livestock theft. As reflected in the voting record, these sensible amendments were not supported by the Committee.

Australian Dairy Farmers said:

The Victorian Government needs to provide more transparency around convictions and sentencing for farm trespass. Where possible this should be reported consistent with ABS standards to provide a foundation for aggregation and reporting nationally. Consideration should also be given to the development of a national database that publicly identifies individuals and organisations found guilty of farm trespass. This would help farmers and businesses with their recruitment and purchasing decisions in the future.¹⁰

⁷ Nichola Donovan, public hearing, Melbourne, 4 September 2019, *Transcript of Evidence*, p. 43.

⁸ *Ibid*, p. 45.

⁹ Abby Zonino, public hearing, Melbourne, 4 September 2019, *Transcript of Evidence*, p. 55.

¹⁰ Australian Dairy Farmers, *submission 272*, p. 7.

1.4.3 **RECOMMENDATION 3:** That Agriculture Victoria conduct an audit of the number of biosecurity management plans in place in animal agriculture businesses in Victoria. The Victorian Government should follow up this audit with assistance to enable those businesses without one to implement a biosecurity management plan.

MINORITY RECOMMENDATION 3: That the Victorian Government provide monetary assistance to farmers wishing to develop or update biosecurity management plans.

Rationale

The Liberal and Nationals Members do not believe an audit of biosecurity management plans is appropriate until assistance and guidance regarding obligations to maintain a biosecurity management plan is better communicated to farming businesses.

Throughout the Inquiry the Committee heard how the need for and requirements of a biosecurity management plan differed between industries.

Australian Dairy Farmers said:

The Victorian Government, through Agriculture Victoria, should continue to support the adoption of farm biosecurity planning and practice by providing ongoing funding of the Dairy Biosecurity Builder tool. This would enable farmers to understand and adapt to increasing biosecurity risks posed by animal activists and other sources.¹¹

Mr Michael Rosier, Acting Executive Director, Biosecurity Services, Biosecurity and Agriculture Services, Agriculture Victoria said:

In terms of advice to the sector, if people or producers are connected with farming associations, then they will obviously be able to get advice and information through the channels. Really, we would advise producers to have a farm plan. They should have a biosecurity plan and a farm management plan. So, it is really around producers.¹²

Leonard Vallance, President, VFF Livestock Group said:

Currently, Victorian farmers are offered little protection against deliberate acts of lawbreaking; trespassing and livestock theft during a farm invasion are not covered appropriately under Victoria's trespass and biosecurity laws. Both New South Wales and Queensland State Governments have introduced stronger penalties for trespassing, strengthening their state's biosecurity defence and security for their farmers.

This submission is not about suppressing individual beliefs and freedom of speech, it is about setting the course for a future that safeguards Victoria's biosecurity status, its food and fibre

¹¹ Ibid

¹² Mr Michael Rosier, Acting Executive Director, Biosecurity Services, Biosecurity and Agriculture Services, Agriculture Victoria, public hearing, Melbourne, 23 September 2019, *Transcript of Evidence*, p. 5.

production and protects farming families against the actions of extreme animal rights activists.¹³

Timothy Kingma, pig farmer and VFF Pig Group President said:

In terms of the cost: obviously people showering, in and out, is half an hour of the day gone already at the start and at the end of the day; providing all the clothing; staff meetings; and then we have vets come on at least every three months. Part of those staff meetings is based around our biosecurity plans. We do internal audits of our biosecurity plans.¹⁴

Rivalea Australia said in their submission:

Conditions for entry to a particular Piggery Site vary, but will include procedures and requirements for:

- showering in;
- vehicle movements;
- use of company clothing and boots;
- time exclusion periods between Contact With Pigs and restrictions for staff on owning/raising pigs outside of Rivalea;
- time exclusion periods after returning from overseas, with extended exclusion periods after returning from destinations considered high risk (including for support staff that do not directly work within the Piggery Site);
- exclusion ban on pork products entering any Piggery Site (ham, bacon, salami, jerky etc), including within truck cabins;
- cleanliness of materials brought onto a piggery site – all materials must be clean and free from organic matter. Products manufactured in Asia must have a 10 week transit period prior to entering the farm boundary (including feed ingredients) to protect against the current ASF threat. Any materials moved between Rivalea farms are subject to veterinary/farm manager assessment and disinfection where required. Vendor declarations obtained where necessary;
- All visitors to a Piggery Site must be authorised prior to the visit and sign a visitor register at the time of the visit to declare that they meet our strict biosecurity protocols.
- All contractors are approved and inducted prior to work within our sites which includes clear directions on biosecurity requirements.¹⁵

1.4.4 **RECOMMENDATION 4:** That the Victorian Government review the *Livestock Disease Control Act 1994* with a view to the creation of an offence for all visitors/trespassers non-compliance with a biosecurity management plan, including a requirement that all visitors/trespassers must comply with plans. In cases of trespass, it should be clear that there is no requirement for business owners to have explained the biosecurity management plan to those trespassing

¹³ VFF Livestock Group, *submission 416*, p. 2.

¹⁴ Timothy Kingma, President, VFF Pig Group, public hearing, Wangaratta, 8 October 2019, *Transcript of Evidence*, p. 10.

¹⁵ Rivalea Australia, *submission 146A*, p. 1.

MINORITY RECOMMENDATION 4: Support the Committee’s recommendation.

Rationale

The Committee heard evidence regarding the blatant disregard of activists towards biosecurity risk. It was clear from this evidence that obligations to comply, and penalties for failing to comply with biosecurity management plans should be strengthened.

One chicken farmer told the Committee:

They manage our farm under strict biosecurity with locks on all gates and appropriate legal signage. We have footbaths to sanitise all footwear. We have a visitors declaration for contact with any avian species or pigs before they are allowed to enter our farm and that is for disease control, particularly the H5N1 bird virus and 1LT, which is rife in the industry and easily spread on people’s bodies.

On approaching one of the protesters before the police asked us to return to the house, I asked them why they were there and what they hoped to achieve, and I said to the policeman who was beside me, ‘I hope you’re going to arrest these people’. And this gentleman said to me, ‘I’ve been arrested 17 times. I’ve never been charged’—and excuse my language—‘so go f--- yourself’.

And that was the attitude. We manage our farm under strict biosecurity. Our farm is biosecure, with locks on all gates and appropriate legal signage. We have footbaths to sanitise all footwear. We have a visitor’s declaration for contact with any avian species or pigs before they are allowed to enter our farm, and that is for disease control, particularly the H5N1 bird virus and ILT, which is rife in the industry and easily spread on people’s bodies. And anyone that has been in contact with any avian species, whether it be a pet budgie or a chicken that lays eggs in your backyard, is not allowed in our biosecurity area.

So to have 70 people in our sheds was an enormous risk to the biosecurity of our farm. We also have hand sanitiser at each entry point to the shed and—even my wife and myself—every time we enter the shed we wash our boots and we wash our hands in sanitiser. However, these people walked through mud to get into our sheds—through cow paddocks and sheep paddocks, through a back entry into our farm—and that, again, posed a risk to biosecurity.¹⁶

- 1.4.5 **RECOMMENDATION 5:** That the proposed new biosecurity offence include an on-the-spot fine, similar to the New South Wales model, for non-compliance with biosecurity management plans.

¹⁶ Name Withheld, public hearing, Warragul, 21 August 2019, *Transcript of Evidence*, p. 3.

MINORITY RECOMMENDATION 5: Support the Committee’s recommendation.

Rationale

On the spot fines were endorsed by multiple industry bodies, including VFF Pig Group, Wannon Branch of United Dairyfarmers of Victoria, Australian Livestock and Property Agents and John Gommans of Gippy Goat and Caldermeade Farms.

John Gommans stated:

So, my recommendations to the Committee are that, because the courts appear reluctant to provide punishment, we should have on-the-spot substantive fines for trespass and breach of biosecurity. Activists are confident in their ability to ignore the police when it suits them. Drawing you to the New South Wales example, you can have an on-the-spot fine of \$1000, \$220 000 if you are an organiser, or \$440 000 if you are a corporation. A similar process in Victoria would be helpful.¹⁷

Mr Timothy Kingma, family pig farmer in north-central Victoria and VFF Pig Group President had this to say in relation to penalties:

I call for penalties of at least \$1000 on the spot and at least a \$220 000 fine for individuals and a \$400 000 fine for organisations. What is happening to farmers would not be acceptable in our local hospital, the school that my kids are at today or even this building. Would any of you accept this happening in your own home? I am a legally operating pig producer, and I just want the ability to grow food and contribute to the economy.¹⁸

- 1.4.6 **RECOMMENDATION 6:** That Agriculture Victoria display online information about animal agriculture standard practices and related legislation and regulations.

MINORITY RECOMMENDATION 6: Support the Committee’s recommendation.

- 1.4.7 **RECOMMENDATION 7:** That Agriculture Victoria and PrimeSafe work with industry to collect examples of benchmark, high-quality animal welfare and biosecurity activities in animal agriculture to better inform the community of agricultural practices.

MINORITY RECOMMENDATION 7: Support the Committee’s recommendation.

¹⁷ John Gommans, Gippy Goat Farm, public hearing, Warragul, 21 August 2019, *Transcript of Evidence*, p.31

¹⁸ Timothy Kingma, President, VFF Pig Group, public hearing, Wangaratta, 8 October 2019, *Transcript of Evidence*, p. 8.

1.4.8 **RECOMMENDATION 8:** As a continuation of Recommendation 6, that Agriculture Victoria make information about the ‘compliance continuum’ more accessible on its website. This would help the public better understand the approach regulators take regarding breaches of animal welfare regulations and standards.

MINORITY RECOMMENDATION 8: As a continuation of Recommendation 6, that Agriculture Victoria make information about the ‘compliance continuum’ more accessible on its website. ~~This would help the public better understand the approach regulators take regarding breaches of animal welfare regulations and standards.~~

Rationale

The Liberal and Nationals Members believe that Recommendation 8 will also benefit farmers, assisting them to understand the regulatory approach. The text of the recommendation is not the appropriate place to explain the Committee’s justification.

1.4.9 **RECOMMENDATION 9:** That the Victorian Government express its support to the Commonwealth Government for the creation of an Australian Commission for Animal Welfare, in order to expedite the process for the agreement of the Australian Animal Welfare Standards and Guidelines.

MINORITY RECOMMENDATION 9: That the Victorian Government encourage the Agriculture Minister’s Forum to expedite the process for the development of the Australian Animal Welfare Standard and Guidelines.

Rationale

It is the view of the Liberal and Nationals Members that the Agriculture Minister’s Forum is the appropriate forum for Victoria to encourage the expedition of the Australian Animal Welfare Standard and Guidelines, rather than an additional bureaucratic body.

The Committee did not hear any evidence that the problem with the development of the Australian Animal Welfare Guidelines was a lack of bureaucratic capability on the part of the Australian Government.

1.4.10 **RECOMMENDATION 10:** That the Victorian Government, in the absence of approved Australian Animal Welfare Standards and Guidelines incorporate existing animal welfare elements of industry quality assurance schemes into new codes of practice as part of its modernisation of the *Prevention of Cruelty to Animals Act 1986*.

MINORITY RECOMMENDATION 10: That the Victorian Government, in the absence of approved Australian Animal Welfare Standards and Guidelines and **with the support of the relevant industry peak body**, incorporate existing animal welfare elements of industry quality assurance schemes into new codes of practice as part of its modernisation of the *Prevention of Cruelty to Animals Act 1986*.

Rationale

The Liberal and National Members of the Committee believe only when industry support is secured should codes be changed. We believe that quality assurance schemes play an important role in encouraging industry to lead by example in improving animal welfare outcomes. Blanket adoption of these standards by the Victorian Government may have perverse animal welfare outcomes by stifling industry innovation and leadership. For this reason we have recommended the Victorian Government ensure industry support for any aspect of the schemes that are adopted.

The Committee heard from the Timothy Kingma, the VFF Pig Group President how the pig industry has led the way in terms of phasing out sow stalls:

Our APIQ [Australian Pig Industry Quality] standard, which is our quality assurance program, is world leading. Other things we have done as an industry are that we were the first one in the world to voluntarily remove sow stalls. They were the things I was saying to him. I said, 'Mate, as an industry we're world leaders and we're doing things as well as anyone in the world, so be proud'.¹⁹

Sow stalls were a way to individually look after an animal. In Australia we have different consumer expectations so as an industry we chose to remove them and put them into group housing. Not necessarily is that better for the welfare of the animals, not 100 per cent, but there are techniques that we all use in our management practices that look after the animals in the group systems. That is why—it was a choice to make as an industry around consumers.²⁰

1.4.11 **RECOMMENDATION 11:** That the Victorian Government consider its modernisation of the *Prevention of Cruelty to Animals Act 1986* to be a matter of priority.

MINORITY RECOMMENDATION 11: Support the Committee's recommendation.

Rationale

Liberal and Nationals Members support this recommendation but caution that prioritisation should not come at the expense of industry and community consultation. It is the understanding of the Liberal and Nationals Members that successive Victorian Labor Agriculture Ministers have been stalling the consultation process for the POCTA review.

¹⁹ Ibid

²⁰ Ibid, p. 11.

1.4.12 **RECOMMENDATION 12:** That the Victorian Government conduct an examination of alternative practices used around the world in the treatment of live male chicks in the egg industry and the use of blunt force trauma on goats, pigs, and cows with a view of adopting ‘world’s best’ practice. These standards should be higher than the existing codes of practice in the *Prevention of Cruelty to Animals Act 1986*.

MINORITY RECOMMENDATION 12: Oppose the Committee’s recommendation.

Rationale

The Liberal and Nationals Members believe that the Committee, including Government Members, have acted inappropriately in pushing through this recommendation without providing industry stakeholders the opportunity to comment on these matters when they appeared before the Committee.

Committee Members at no time asked questions during hearings of the following industry organisations or individuals regarding the content of Recommendation 12:

- **Free Range Egg and Poultry Australian Treasurer, free range egg producer**, Meg Parkinson
- **LT's Egg Farm**, Danyel Cucinotta, Brian Ahmed
- **Agriculture Victoria**, Sally Fensling, Executive Director, Animal Welfare Victoria, and Agriculture Regulatory Policy, Michael Rosier, Acting Executive Director, Biosecurity Services, Biosecurity and Agriculture Services, Dr Cameron Bell, Acting Chief Veterinary Officer, Biosecurity and Agriculture Services.
- **Professor Paul Hemsworth**, Animal Welfare Science Centre, Melbourne University.
- **Victorian Farmers Federation**, David Jochinke, President, Stephen Sheridan CEO.
- **United Dairyfarmers of Victoria**, Paul Mumford, President.
- **Victorian Farmers Federation**, Leonard Vallance, President, Livestock Council.
- **Australian Livestock Saleyard Association**, Mark McDonald, Executive Officer, Paul Christopher, Horsham Saleyard Manager, Richard James, Naracoorte Saleyard Manager, Sally Ison.
- **Luv-a-Duck**, Daryl Bussell, CEO, John Millington.
- **United Dairyfarmers of Victoria, Wannon Branch**, Chris O’Keefe, Secretary, Bernie Free, Member, Oonagh Kilpatrick, Policy Councillor.
- **RSPCA Victoria**, Mhairi Roberts, Animal Welfare Policy Manager, Jed Goodfellow, Science and Policy Team Lead.
- **Australian Meat Industry Council**, Patrick Hutchinson, CEO.
- **Gippy Goat Farm**, John Gommans.

1.4.13 **RECOMMENDATION 13:** That any new codes of practice in the *Prevention of Cruelty to Animals Act 1986* include appropriate penalties for non-compliance.

MINORITY RECOMMENDATION 13: Support the Committee’s recommendation.

1.4.14 **RECOMMENDATION 14:** That following consultation with industry, unions and other relevant stakeholders, the Victorian Government consider the implementation of closed-circuit television cameras in Victorian abattoirs with a legislative model similar to the *Mandatory Use of Closed Circuit Television in Slaughterhouses (England) Regulations 2018*.

MINORITY RECOMMENDATION 14: That following consultation with industry, unions and other relevant stakeholders, the Victorian Government provide monetary assistance for voluntary adoption of closed-circuit television cameras in Victorian abattoirs.

Rationale

The Liberal and Nationals Members acknowledge the conflicting evidence on the use of Closed-Circuit Television (CCTV) monitoring in agricultural settings. The Committee recommendation to mandate CCTV (modelled on *Mandatory Use of Closed-Circuit Television in Slaughterhouses (England) Regulations 2018*) was not supported in the evidence provided to the Committee.

In relation to CCTV in abattoirs one industry representative stated:

Look, it is not compulsory, but I think it is a chance that it will be. Obviously, we are audited by our customers, we are audited by our authorities and at this stage it is not legal, so we have not. We are looking at putting cameras in for that reason, to monitor our staff, but we are very, very cautious. I know the meat union are very cautious about, obviously, surveillance, their privacy—

I do not think the union would be in favour of that. There is a certain privacy. But look, there are areas where cameras are valuable as far workplace accidents go—areas where there is non-compliance should definitely have cameras—but that is something that we would have to discuss with the union. But I know that they are not that keen on cameras being on plant. To what level they accept certain cameras in certain areas is something we have not discussed with them yet. Most of our cameras are external, they are not internal. I think we have got one internal camera, but most of them are external on the surrounds of the plant.²¹

North East Victorian, Mr Bill Baxter raised his concerns in relation to who would interpret the footage:

I do not actually object to television cameras being there [in abattoirs], but who is interpreting what the television is recording? Are they putting a fair interpretation on it? I do not know that there is a case to put it in every abattoir, but I think it is something that the Committee will need to weigh up, looking at the evidence and taking evidence from abattoir owners.²²

The VFF held strong sentiment against the installation of CCTV within agricultural businesses. VFF President David Jochinke said:

First of all, and this is the part that really grinds my gears, there is an assertion that we are criminals and we are doing something wrong. That is absolutely absurd. I am absolutely flabbergasted that somebody of that profession and ilk would take the attitude that you are

²¹ Name Withheld, public hearing, Warragul, 21 August 2019, *Transcript of Evidence*, p. 37.

²² Bill Baxter, public hearing, Wangaratta, 8 October 2019, *Transcript of Evidence*, p. 16.

guilty until proven innocent and the fact of the impracticality of such a suggestion that it would be a solution. I really struggle that that should be a solution. However, I will also say that we have to make sure that as far as the agriculture community goes, we are open to having conversations, that we are open to giving assurances. But to treat us in such a manner is not only disrespectful in its absurdity, but then also for me as a citizen I would find that a complete disrespect to not only my trade but to my profession and even my community.²³

1.4.15 **RECOMMEDATION 15:** That Agriculture Victoria conduct an audit of its responses to substantiated animal welfare complaints in 2019 to determine if the appropriate action was taken in each case. The results of the audit should be published on Agriculture Victoria’s website. The results should be deidentified to ensure no breach of privacy occurs.

MINORITY RECOMMENDATION 15:

- a) That Agriculture Victoria conduct an audit of its responses to substantiated animal welfare complaints in 2019 to determine if the appropriate action was taken in each case. The results of the audit should be published on Agriculture Victoria’s website. The results should be deidentified to ensure no breach of privacy occurs.
- b) That the appropriate authority(ies) conduct an audit(audits) of the responses of police and the judiciary to instances of trespass and theft by animal activists.**

Rationale

Given the concern heard by the Committee regarding the response of Police and the judiciary to animal activist activity, Liberal and Nationals Members believe it appropriate that these responses also be audited to determine if appropriate action was taken in each case.

1.4.16 **MINORITY RECOMMENDATION 16:** That the Victorian Government requests the Judicial College of Victoria to provide education and training to magistrates and judges about consequences and impacts of farm trespass and animal activism, particularly those undertaking circuit work in regional courts.

Rationale

The Committee heard evidence from numerous stakeholders who were dismayed by the financial penalties handed down to the animal activists convicted after removing and keeping a goat from John Gommans’ Gippy Goat Farm.

A number of submission and witnesses voiced their dismay and requested greater understanding of the plight of farmers on the part of the Judiciary:

²³ David Jochinke, President, Victorian Farmers Federation, public hearing, Melbourne, 23 September 2019, *Transcript of Evidence*, p. 47.

The Australian Livestock and Property Agents Association:

ALPA recommends the Victorian government provide educational resources to prosecutors and judges that highlights the value of agricultural industries and the severity of biosecurity breaches. The \$1 Gippy Goat fine was a mockery of the value of the industry and the possible biosecurity implications.²⁴

Mr Bill Baxter:

If the magistracy is not prepared to apply the law as Parliament surely intended, then Parliament needs to act.²⁵

Mrs Kaye and Mr Graham Laing:

It was an extreme insult when the activists were brought to court and fined \$1. What message does that send to our farming families, are we that undervalued.²⁶

1.4.17 **MINORITY RECOMMENDATION 17:** That the Victorian Government investigate statutory minimum penalties for trespass and theft with a view to implementing statutory minimum penalties when a threshold of physical or financial damage has been inflicted.

Rationale

The Victorian Farmers Federation said in their submission:

Despite the State of Victoria having existing trespass legislation, it is not accommodating the current issues occurring on farms, and the criminal code cannot be retrofitted to these circumstances within the judiciary system. Evidence of misapplication has been identified with fines being issued to persons who have engaged in trespass receiving a fine of \$1. This demonstrates the requirement for the State of Victoria to urgently establish laws that protect farmers' livelihoods.²⁷

Australian Dairy Farmers said:

The Victorian Government should adopt Western Australia's trespass law with a slight amendment of making some or all of the \$12,000 fine issued as on the spot. This locks in a minimum penalty to protect against the imposition of grossly inadequate sentences being handed down by the courts.²⁸

The Victorian Government should consider including a provision in the Livestock Disease Control Act 1994 (Vic) that enables farm trespassers to be prosecuted for causing an animal disease and for fines to include cost recovery for negatively impacted parties.²⁹

²⁴ Australian Livestock and Property Agents Association, *submission 390*, p. 6.

²⁵ Bill Baxter, *submission 22*, p. 2.

²⁶ Kaye & Graham Laing, *submission 33*, p. 1.

²⁷ Victorian Farmers Federation, *submission 391*, p. 4.

²⁸ *Ibid*, p. 8.

²⁹ *Ibid*, p. 13.

The Diamond Valley Egg Farm submission called for:

- The ability for affected businesses to recoup the financial and future earning losses from Animal Rights Activist groups and individuals.
- Jail terms which deter the crime not opportunities to gain exposure for the activists.³⁰

Ms Danyel Cucinotta, Egg Farmer, LT's Egg Farm stated:

The Victorian Government needs to introduce new strict and harsh penalties for those who invade and cause destruction to our Aussie farms. They need to ensure that those individuals are penalised and large organisations who promote this behaviour are also penalised appropriately.

I would also recommend that the large organisations are not able to pay the fines on behalf of these individuals committing these crimes and that each one should get a criminal offence. These laws need to be stricter and properly enforced, and the next generation of farmers needs to be protected—otherwise they will stop farming. Is this what we want? Do we want to import our food from overseas and from countries where they have no quality assurance standards and processes?³¹

Victorian Farmers Federation Livestock Group said in its submission:

Laws are developed to protect people and communities and currently the Victorian farming community does not feel protected against farm invasions and the threat of farm invasions. Farmers should be able to go about their legal business of producing quality food and fibre for consumers without the threat of animal activists. This begins with tougher penalties for extreme actions of activists including trespassing, livestock theft and vandalism. These are well-planned and deliberate acts of criminal behaviour and should be treated as such regardless of intent.³²

Victorian free-range egg farmer, Meg Parkinson said:

The UK shows why it is important that strong penalties be implemented against animal rights activists. There are animal rights organisations in the UK which use terrible levels of intimidation against any organisations or people they do not like.³³

1.4.18 MINORITY RECOMMENDATION 18: That the Victorian Government legislates to re-affirm the right of farmers to use animals in agriculture.

³⁰ Diamond Valley Egg Farm, *submission 228*, p. 2.

³¹ Danyel Cucinotta, Egg Farmer, LT's Egg Farm, public hearing, Warrnambool, 17 September 2019, *Transcript of Evidence*, p. 21.

³² Victorian Farmers Federation Livestock Group, *submission 416*, p. 5.

³³ Meg Parkinson, *submission 374*, p. 3.

Rationale

The Liberal and Nationals Members are appalled that the Government Members of the Committee voted against this motion (as evidenced in the Extract of Proceedings), failing to support Victorian livestock farmers' right to farm. Livestock production is an integral contributor to Victoria's economy and the identity of many of our regional communities are intrinsically linked to livestock farming. Victoria's Parliament must act to safeguard Victoria's strong tradition of livestock farming against the illegal activities of animal activists that seek to destroy the industry.

1.5 Discussion

1.5.1 Mental Health

The Committee heard extensive evidence regarding the detrimental impact animal activist activity can have on the mental health of farmers, their families and their staff. Liberal and Nationals Members want to ensure that this evidence is heard. It is appropriate that the voices of these people are heard. Unfortunately, Government Members voted against the inclusion of many of these case studies in the Committee Report.

The Committee heard from a Mornington Peninsula chicken farmer about the impact of an incidence of illegal trespass on himself and his family:

Lack of sleep, the fear, the anxiety, the depression and the constant surveillance just took its toll on us, and we decided that we just had to sell up and get the hell out—so we did.

So, these people invaded our home, and when I got dressed and walked down with the police I was absolutely confronted. I was fearful.

These people had dark clothes. They had hoodies on. They did not want to be easily recognised. I did not know who they were. To all intents and purposes, they were terrorists. They presented like terrorists. They could have had baseball bats, they could have had knives, they could have had guns. I do not know. All I know is that there were 70 people in one of our sheds, which is a horrifying thing to confront. In their manner they are confrontational, they are abusive, and they wanted us to engage them to cause a scene, which we did not. So, we were frightened. The image was one of terrorism, and we were very fearful for our safety. They called us killers, they called us animal abusers and they called us criminals. They said that they would return, and they did, one week later. That is when they spray-painted the side of one of our sheds with the graffiti.³⁴

The Committee learnt that the mental health of employers and their workers can be compromised when their businesses are targeted by protestors:

³⁴ Name Withheld, public hearing, Warragul, 21 August 2019, *Transcript of Evidence*, p. 3.

I think the most disturbing thing is the mental state of the people that witnessed it and they have this ongoing fear that it is going to come back again.³⁵

My staff are Karen refugees. The four people that were involved with the contract catch up crew are Karen refugees. We had the onerous task to sit down with them and show the video footage taken by these activists about their work practices, and they were deeply affected by that—deeply and mentally affected.³⁶

1.5.2 Financial Losses for Businesses

Government Members voted against the inclusion of evidence of the financial cost to farmers of trespass and activism. This evidence has been included to ensure the voice of impacted farmers is appropriately recognised.

Mr John Gommans of Gippy Goat Café gave evidence that through harassment of his staff and social media targeting of his customers he was forced to close the Gippy Goat Café which had a turnover of \$800,000.³⁷

Mr Brian Ahmed, egg farmer, LT's Egg Farm, speaking of the impact of one instance of activist activity on his farm:

The economic cost—on our occasion we suffered probably close to \$10 000 in damages. That was to the doors that were broken into, disruption to our grading facilities and things like that.³⁸

Mr Ahmed received no compensation from activists – a \$750 fine was ordered to be paid by the perpetrators to an animal welfare organisation of their choice.

We went to court, and they were given a \$750 fine which then went to a third party, the RSPCA, and they had no criminal record.³⁹

A Mornington Peninsula chicken farmer noted the loss of 300 birds, a ruptured watering system, cleaning of graffiti and loss of production as costs to be borne as a direct result of activism on his farm.⁴⁰

³⁵ Gary Bussell, CEO, Luv A Duck, public hearing, Horsham, 18 September 2019, *Transcript of Evidence*, p. 31.

³⁶ John Millington, Contractor, Luv A Duck, public hearing, Horsham, 18 September 2019, *Transcript of Evidence*, p. 34.

³⁷ John Gommans, Gippy Goat Farm, public hearing, Warragul, 21 August 2019, *Transcript of Evidence*, p.34.

³⁸ Brian Ahmed, Egg Farmer, LT's Egg Farm, public hearing, Warrnambool, 17 September 2019, *Transcript of Evidence*, p. 22.

³⁹ *Ibid*, p. 20.

⁴⁰ Name Withheld, public hearing, Warragul, 21 August 2019, *Transcript of Evidence*, p. 8.

A submission from Diamond Valley Egg Farm identified the business had 'experienced firsthand the damage Animal Rights Activists cause a business and the agriculture industry', including:⁴¹

- Enclosure of the property with a 1.8 metre chain mesh fence topped with three strands of barbed wire;
- Updated and increased security monitoring systems to record movement on the farm;
- Additional security locks on perimeter fencing and buildings;
- Culling of 280,000 laying hens as a biosecurity precaution and subsequent;
- Loss of opportunities in export markets;
- Loss of the revenue for the next 12 - 15 months before the business can resume full trading; and
- Expensive clean-up costs running into millions of dollars.⁴²

1.5.3 Economic value of Victorian agriculture

The Liberal and Nationals Members are disappointed that the Committee Report does not adequately acknowledge the economic contribution of Victorian agricultural industries, including animal agriculture. The Report gives considerable weight in Chapter 5 to the motivations of animal activists but does not appropriately evidence the importance of our livestock industries, particularly to regional Victoria. This section includes *some* of the considerable evidence submitted to and heard by the Committee.

Anonymous witness:

Just a bit of brief background on our company, is based here in Warragul and was established in 1946 by my father. We currently employ 150 staff and have a strong membership in the Australian Meat Industry Employees Union.⁴³

Patrick Hutchinson, CEO of the Australian Meat Industry Council:

We employ almost 50 000 rural and regional people as full-time equivalents in our industry across Australia every year. We probably employ, through multiplier effects, another 125,000 — notwithstanding then, basically the bulk of farmers that obviously rely on us.⁴⁴

Our industry is a \$25 billion industry within Australia. It is now basically a \$15 billion export industry. It is the largest agricultural export industry; it is the seventh largest export industry in total. So there are five minerals, tourism, education and then red meat, so you can effectively look at it from a very basic level, and that is in our state of the industry reports that come out annually.⁴⁵

⁴¹ Diamond Valley Egg Farm, *Submission 228*, p. 1

⁴² *Ibid*, p. 2.

⁴³ Name Withheld, public hearing, Warragul, 21 August 2019, *Transcript of Evidence*, p. 34.

⁴⁴ Patrick Hutchinson, CEO, Australian Meat Industry Council (AMIC), public hearing, Warragul, 21 September 2019, p. 21.

⁴⁵ *Ibid*, p. 23.

Patrick Hutchinson in reference to the Animal Justice Party:

Their requirements are quite clear—that is, an end to animal farming. So if it was all wiped off the face of the country so to speak, then we know that is probably more three times the amount of \$25 billion in the loss of wages, loss of jobs, et cetera, et cetera.⁴⁶

Cr Daniel Meade, Moyne Shire:

Agriculture is vital to our country's food production—a huge role in the economy and a major employer for the Moyne shire. The annual output from the agricultural sector in Moyne shire alone is \$618 million, and the sector supports nearly 3500 full-time jobs. Threats to the sustainability and security of this sector cannot be tolerated, and voluntary acts that create such threats should be penalised strongly by law.⁴⁷

Simon Ramsay said:

I am a part owner and director of a food company that processes lamb for Coles supermarkets, employs 400 people and generates about \$30 million for the local economy here in western Victoria.⁴⁸

I have worked both in and on the growth and protection of the animal, plant and fibre industries over my lifetime and am extremely concerned that an industry that produces over \$8 billion of product, employs over 90 000 workers, sustains over 30 000 fragile farming families and provides a GNP to Victoria of over \$14 billion would be put at risk by small group of vegans that represent less than 1 per cent of our food-eating population pursuing a philosophical ideal of ridding Australia of animal production and replacing it with plant production.⁴⁹

Bernie Free, Member of the United Dairy Farmers of Victoria, Wannon Branch:

Where a farmer has strict protocols protesters can cause the very thing that they say they want to prevent. This is not to mention the possible introduction by an overseas traveller of mad cow disease or foot-and-mouth disease, which would wipe out a \$14 billion agricultural industry from Victoria.⁵⁰

Oonagh Kilpatrick, Policy Councillor, United Dairy Farmers of Victoria, Wannon Branch:

Yes, the impact on the dairy industry is colossal. In this region, I think for every \$1 million that we generate we create something like four and a half or five jobs—five positions, full-time positions. Irrespective of where it is, we are the third largest rural industry in Australia—here we are number one—and we are looking at 4.27 billion, creating for every million dollars spent throughout the whole of Australia eight and a half full-time jobs.⁵¹

⁴⁶ Ibid

⁴⁷ Cr Daniel Meade, Deputy Mayor, Moyne Shire Council, public hearing, Warrnambool, 17 September 2019, *Transcript of Evidence*, p. 40.

⁴⁸ Simon Ramsay, public hearing, Warrnambool, 17 September 2019, *Transcript of Evidence*, p. 35.

⁴⁹ Ibid

⁵⁰ Bernie Free, Member, United Dairyfarmers of Victoria (Wannon Branch), public hearing, Warrnambool, 17 September 2019, *Transcript of Evidence*, p. 29.

⁵¹ Oonagh Kilpatrick, Policy Councillor, United Dairyfarmers of Victoria (Wannon Branch), public hearing, Warrnambool, 17 September 2019, *Transcript of Evidence*, p. 31.

Katherine Cain:

Apart from the direct threat that activists pose to the welfare of livestock, themselves and other people, the indirect impact they pose is a threat to not only animal and personal welfare but to our state's economy. To quote the Agriculture Victoria Strategy: "Victoria is the powerhouse of Australian food and fibre exports." Our state is the biggest exporter by value nationally, and with over half the gross value of Victoria's agricultural industry derived from livestock and a projected stratospheric increase in demand for Victoria's animal-derived proteins, the future is exciting.⁵²

Anthony Ford, Executive Officer, Great South Coast Food and Fibre Council:

I just want to take 2 minutes just to explain, from an animal perspective, the value of the industry to our region. Food and fibre produces over 60 per cent of the regional domestic product for the region, and we produce over \$2 billion worth of animal-based farm gate outputs. To put that into perspective, Australia's export is forecast to be \$59 billion this year. We produce \$2 billion of that at a farm gate level here. On top of that \$2 billion there is forestry, cropping and horticulture as well. That takes it up to the number one region in Victoria for output of agriculture and food products.⁵³

Lisa Dwyer:

The Great South Coast region is characterised by a high concentration of agricultural activity... It comprises 29 per cent of our gross regional product, and from a dairy-specific perspective a recent study demonstrated a multiplier effect totalling \$1.364 billion that is reinjected into this community and that also supports 8600 jobs either on farm or in the processing sector. The dairy sector in the south-west is now the nation's largest, and it is therefore strategically important to Victoria's economy.⁵⁴

One of the things that I have noticed is that every discussion on this topic, and mine is no exception, seems to reference the economic imperatives of agriculture. I am the last person to say that we should underestimate that. But I think that the importance of what we as farmers and others involved in livestock production provide extends far beyond just the economic imperatives because it also encompasses social wellbeing and the wellbeing of our nation... From a historical perspective, it is also worth noting that the co-evolution of humans and animals extends beyond 10 000 years, and as a result the co-dependencies between animals and humans have shaped cultures across the world and also help us to understand who we are...we should instead be proud of our roles in producing high-quality food and fibre for millions of people in a manner that is both sustainable and ethical, and we should be equally proud of the communities that we are a part of and the contribution that we make to our state and our nation. The final point that I would like to raise is that expanding the value of the role that agriculture plays beyond economics and social wellbeing is the often overlooked value that Victorian agricultural production plays in the national wellbeing. Victoria contributes 27 per cent of Australia's total food and fibre by export value and as a result is well positioned to play a role in supporting international diplomacy efforts via the food security priorities of other nations that are not only in our domestic interests but also in the interests of the people of those countries with which we trade.⁵⁵

⁵² Katherine Cain, public hearing, Warrnambool, 17 September 2019, *Transcript of Evidence*, p. 15.

⁵³ Anthony Ford, Executive Officer, Great South Coast Food and Fibre Council, public hearing, Warrnambool, *Transcript of Evidence*, p. 7.

⁵⁴ Lisa Dwyer, public hearing, Warrnambool, 17 September 2019, *Transcript of Evidence*, p. 1.

⁵⁵ *Ibid*, p.2.

Paul Mumford, President, United Dairyfarmers of Victoria:

Dairy farmers are also integral for the economic respect for local communities. As this is an economic inquiry, I will touch briefly on what dairy contributes to the Victorian dairy economy. The Australian dairy industry is currently valued at \$14 billion, with 65 per cent of this value coming from Victoria. That equates to around \$9.1 billion. Dairy is also a major employer in regional communities, both on farm and in the processing facilities, employing over 25 000 people who help economic growth and stimulus for regional and rural communities.⁵⁶

Michael Rosier, Acting Executive Director, Biosecurity Services, Biosecurity and Agriculture Services, Agriculture Victoria:

Despite having a relatively small percentage of agricultural land and development relative to some other parts of Australia, Victoria is actually a very significant producer of agricultural products. We are talking about around 21 000 farms, 70 per cent of which are livestock-based, and that is significant. In terms of productivity, the 2017-18 financial year statistics for Australia's total gross value of agricultural production had Victoria contributing over 25 per cent of the nation's total, at a value of around \$15 billion relative to the national total of \$59 billion—so very significant. The industry in Victoria is also relevant and important in terms of regional and rural communities and employment, with around 52 000 people employed in the sector—so very significant in terms of the state and the national economy.⁵⁷



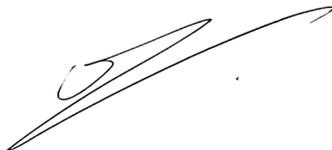
Melina Bath MP

Member for Eastern Victoria Region



Beverley McArthur MP

Member for Western Victoria Region



Bernie Finn MP

Member for Western Metropolitan Region

⁵⁶ Paul Mumford, President, United Dairyfarmers of Victoria, public hearing, Melbourne, 23 September 2019, *Transcript of Evidence*, p. 40.

⁵⁷ Michael Rosier, Acting Executive Director, Biosecurity Services, Biosecurity and Agriculture Services, Agriculture Victoria, public hearing, Melbourne, 23 September 2019, *Transcript of Evidence*, p. 1.

December 18, 2019

MINORITY REPORT
Animal Activist Inquiry
Sonja Terpstra MP
Member for the
Eastern Metropolitan Region

18 December 2019

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Introduction

The purpose of this minority report is sets out limitations with the report itself, which may or may not have arisen from the way the terms of reference were drafted, findings and or recommendations. Additionally, and alternatively rather than re-prosecuting the report in accordance with the terms of reference, a discussion on themes is provided. Most if not all of the themes arose from the terms of reference however.

Background

Brief facts:

- There were 506 submissions received by the inquiry;
- 7 days of public hearings in rural and regional Victoria and Melbourne;
- 3 site visits were carried out;
- 54 witnesses in total gave evidence. In some instances there were multiple witnesses representing singular organisation(s);
- A broad range of stakeholders gave evidence from farming, agriculture, government agencies, community groups, industry groups, activist and individuals;
- The majority of submissions came from people who held animal welfare concerns.

Overview of community views in the debate

There was general consensus on the committee about the range of views held by people in regard to consumption of animals for food and/or animal products. Some people have strongly held views at both ends of the debate. However, by and large most people fall in the middle. A snapshot of the most views included:

- People who say that humans should not eat animals and that society should transition to a crop based diet and/or;
- People who don't agree that animals should be used for human consumption or food production and that animals should be liberated from farms;
- People who are comfortable with eating animals, so long as they can be reasonably satisfied that the animal has been slaughtered in a humane way and has lived a good life, i.e. free range etc;
- People who are unconcerned about how an animal is farmed or slaughtered for food production;
- People who hold animal welfare as a high priority as part of their farming/agricultural business.
- People who believe they have a right to farm and what happens on farm isn't open to public debate or review;
- Most in the farming/agriculture community acknowledged the right of people to protest, but held strong views about activists entering farming premises in an unauthorised way.

Media reporting

The activities of animal activists entering farms or protesting has received much media attention. A community campaign was started in regard to the Gippy Goat Café incident which was widely reported and drew a large amount of media attention.

The media coverage of that incident has contributed to perceptions of fear of unauthorised entry onto farms. It has also given rise, in part, to anger amongst the farming community about the way the judiciary is perceived to have dealt with offenders when they were brought before the courts. The reporting of the incident and subsequent court proceedings has been selective in that all aspects of the outcome were not necessarily given equal attention.

Fear has been intensified due to the politicization of the issue which is underpinned by a tough on crime type approach.

Emerging themes

1. Animal Welfare - means different things to different people

Animal welfare can have a different context for farmers and community members concerned about animal welfare. It means different things to different people in the debate. Consistent with the above opening remarks, evidence was given that covered a range of views.

Animal welfare to some farmers means that if animal is not healthy, it will not sufficiently produce what the farmer needs to sell. In this case, animal welfare has a different context and is viewed through a monetized lens. Conversely, some community members place primary concern on animal sentience and the health, happiness, housing, the ability of the animal to roam or forage and be with other animals of the same kind and not be restricted or subject to what might be perceived as cruel practices.

Ms. Nicola Fanning gave evidence at the hearing at Wangaratta on Tuesday 8 October 2019. Ms. Fanning is a beef cattle producer with a strong interest in animal welfare. She also states that she is an animal activist.

Her evidence is persuasive, balanced and gives a good insight into the many and varied issues that impact farming businesses.

The reason for setting out much of her evidence is due to much of it informing this contents of this minority report. Additionally, Ms. Fanning's evidence provides a welcome insight into a potential way forward with the entire debate. The Committee shared some of her views, which are reflected in some of the recommendations: (*emphasis added*):

"The CHAIR: Thank you very much, Nicola.

Mr GEPP: Thank you for your presentation and thanks for coming along today. We have heard over this Inquiry a couple of different extremes in this whole debate around the production of livestock animals and the prevention of cruelty to animals et cetera. You just said in your opening statement that it would be good if we could get the stakeholders together. So putting aside those extremes, because we know that there are some activists, for example, who say, 'Well, we don't want any farming of livestock' —

Ms FANNING: Yes.

Mr GEPP: That is not going to happen, or I cannot imagine it is going to happen—

Ms FANNING: It is not going to happen.

Mr GEPP: and I cannot imagine that it is going to be a recommendation of this Committee. So if you put some of those extremes to the side, can you just elaborate a little bit further on how you would get all of the stakeholders in a room? What would be the purpose? What would be the objectives of trying to achieve that, from both a production perspective but also animal welfare?

Ms FANNING: I would like to see the lobby groups become much less defensive. They seem to be on the attack, and I do not think that that helps anything. I admit that what some of the animal welfare activists have done also does not help the welfare cause and does not help anything, but I think many of the lobby groups—I should not say many—are not taking it seriously, are too much on the defensive, farmers blindly defending farmers when they may not even have seen the animals involved. I would like to change that mindset, I think, and I think if we do not, and we do not start to take it seriously, it could negatively impact in a different way. My nieces are both vegetarians. A lot of young people are vegetarian. I think our domestic markets probably could be affected for meat products particularly rather than export markets at this stage. So I would like those groups to really take it on board seriously and to educate. In this particular case that I have been involved with I did badger everybody in the end, because this is a case with a 25-year history of starving animals where the local community have given up, because ‘Oh, yes, we reported it 10 years ago. We reported it 15 years ago. Nothing ever gets done’. I did badger everybody—the MLA, the minister—so I was disappointed. I got some words of support from groups but not any actual meaningful support. Why can’t this be looked at as part of their auditing program, for instance? And, all right, before they do that they really need to educate producers and put them on notice that this is going to be an expectation and that ‘We will look at you and think about taking away your accreditation’. That was why I was very disappointed when we were audited. I said, ‘Do you want to see the cattle?’. ‘No’. I thought, ‘That’s how they value welfare’, and I found it very disappointing.

Mr FINN: I was fascinated to hear—and certainly I take on board what you say about the starving cattle; it seems to be quite extraordinary—what you said earlier about the injured and the sick cattle that you had seen. How often does that occur?

Ms FANNING: It is a difficult question. I do not know about injured and sick. With most of the sick cattle I see it is directly related to poor management, lack of feed; maybe it is a worm problem. I do regularly see animals that are needing assistance. There were some sheep down the road on the highway at Benalla recently or in late summer, and every time I would go past there would be another dead one. I am pretty sure it was because they were flyblown, they probably had two years wool on them, in a paddock of maybe 40. I did not report them, and I felt really guilty for not reporting them, and every time I drove up the highway there would be another one dead. So the whole management thing was not good there. And I do relatively regularly see that sort of thing happening unfortunately. I think it is more widespread than people like to admit to.

Mr FINN: We have heard for some time now on this Inquiry that farmers get the most productivity from animals that are healthy and that are happy. What possible purpose would it serve to keep injured or sick animals in the way that you describe?

Ms FANNING: Well, injured animals I think usually, if they are badly injured, you approach an owner or the department does—that would be dealt with fairly well. It is usually the large starvation cases on large properties that are the difficult ones. My partner is also involved in the livestock industry fairly heavily and has worked as an agent for a long time, and he has had—and relayed to me—owners say to him that it is cheaper for them to have up to 10 per cent of their animals die than it is to feed them and to keep them in, say, above condition score 2. That sort of a mindset is another mindset to me that needs to go.

Mr FINN: So you are suggesting that some farmers actually deliberately starve their stock to save money.

Ms FANNING: I am not saying that they deliberately starve them, but they deliberately do not feed them not to spend money.

Mr FINN: Right. Okay.

Mr QUILTY: I was just wondering: how big is your farming operation?

Ms FANNING: We have now scaled back. We have just recently moved to the area. We are running 50 cows and calves. Up until three years ago we were running up to 300 cows and calves on a property in East Gippsland.

Mr QUILTY: It is a decent size. It is odd: in my experience I have seen individual animals, I have never seen large-scale starvation. It is foreign to my experience.

Ms FANNING: Okay. I can show you lots of photos if you like. It can be quite amazing. It is the large-scale ones, and the owners are often difficult, and they are the cases that are difficult to bring resolutions to.

Mr QUILTY: I just wonder how such a farmer makes money.

Ms FANNING: Numbers.

Ms BATH: Thank you, Nicola. To my mind—and I have looked through your case study—your concern and commitment for animal welfare is to be applauded. I would not call you an activist; I would think that you are an animal welfare supporter. That is my interpretation, and I appreciate that you are there for the animals. My comment is in relation to your submission. You talk about 'I have always felt that POCTA—the Prevention of Cruelty to Animals Act—is a reasonably OK document. It is the implementation and enforcement that is failing'. And I go to some of your case studies in your submissions, and you talk about contacting various bodies and the like. To my mind there are laws. They are there to be enforced, but there seems to me to be a gap between the laws and enforcement and the process and the actual outcomes. If I can just hold you to task on one of those, on one issue, and then please answer: we have heard that audits are informed and the farm is rung up. Well, we have heard here, for example, that at the Gippy Goat farm, because of their heightened sense of publicity, they are regularly audited unannounced—on a regular basis. Someone will ring up and say whatever. So I think there are examples where farms are audited unannounced, but you have clearly demonstrated some frustrations in the system where you comment, you ring, you ask for help and the processes are not delivered.

Ms FANNING: Can I ask, is that an audit by—

Ms BATH: An authority such as the local council or Aq Victoria—particularly Aq Victoria, is my understanding.

Ms FANNING: Because unless they have had a report, a group such as Aq Victoria or the RSPCA would not go and do an audit—

Ms BATH: No, there has been a report, a farm report, and then they come in. To my mind, just looking at your submission, it looks like you have reported and reported and provided evidence but the accountability or the implementation is not occurring, and therefore why?

Ms FANNING: Why is it not occurring? I think there are a number of reasons. Sometimes I query commitment. I think there is probably a lack of funding and resources there. I think there is still too much leniency given to owners. I think some of the processes that sit behind the legislation are probably unsuitable. I do not know all of the processes that sit behind the legislation, but for instance the fact that I have been told repeatedly that we must make an appointment before we go to look at the report—if the people have days of knowledge that this is going to happen, well, animals disappear very quickly, so that is one of the frustrations. I get told things like, 'We need to see one that is down. We need to be able to destroy animals. We need to be able to see dead animals before we can actually do anything positive in terms of starting to put a case together or issue the notices to comply', which you may like to ask about too. So it just seems to be very difficult. And again, in many cases if it is somebody's pet horse or somebody's pet cow or it is a genuine owner who is a bit ignorant and an inspector goes and speaks to them and says, 'This, this and this. We've had calls about this. We're concerned about this', well, that person fixes that very quickly. So the hobby farmer-type person will generally fix that really quickly. They are often guilty of fairly horrible things, but they will fix things. It is often farmers that

seem to just become belligerent about it and for whatever reason do not take on board what they are being asked to do.

Ms BATH: Thank you, Nicola. The other question I had was about—and this sort of scares me or frustrates me in a sense—when somebody says we need another independent body. If we unpack that—so I want you to unpack that or respond—what is an independent body? Because ultimately the RSPCA has subscription and volunteer money and it is also paid by the State Government. AgVic is an oversight body; it is also paid by the State Government. If we have an independent body, who is paying it?

Ms FANNING: Who is going to fund it? Yes.

Ms BATH: So is it paid by Animal Welfare Victoria or the extremist groups? And then that is not an independent body, so how do you create an independent body?

Ms FANNING: I must say I am not sure of that. I have often wondered too whether perhaps it would be better if it could be placed with the police, if you could train the police in animal welfare matters, obviously with funding and whatever, and then they are good with the law—

Ms BATH: But they are at the coalface too, aren't they?

Ms FANNING: They are there at the coalface, yes, although I could not get them to help me recently, but anyway. Yes, that would be another avenue, and yes, I see where you are coming from. With the call for an independent body, how do you fund it adequately? And as soon as somebody is funding it, there is a vested interest and a conflict of interest. So it is pretty hard.

Mrs McARTHUR: Thank you very much for your presentation. I have a few questions; rather than give them all to you, I will go one at a time. You mentioned 'animal health is different to animal welfare'. Would you like to unpack that?

Ms FANNING: I was trying to think before how to explain that, and I came up with this rather horrible analogy actually. I thought, 'How do I quantify that?'. If you put 30 children in a room and fed them really well and they were really healthy, but that is all you did, how would you view their welfare? Now, I have not had a lot of time to think it through, but I think it again and again: 'How can I separate animal health from welfare?'. Animals can be healthy, and I think of animals as sentient beings. So clearly apart from the pain aspect, I do think they can feel joy, happiness, sadness—all of those things—so that is probably where the welfare side of it comes in.

Mrs McARTHUR: So how do you measure that welfare, their happiness?

Ms FANNING: I can see it, but I do not know how I measure it. If we have had cattle locked in the yard for a few days and they all joyously go springing about as you let them out, to me that is joy. The chooks, when they hear the gate open to let them out for the day, they run to the gate; that is joy. The gentleman earlier was saying about taking the lamb away from the ewe and that for two days she screams and frets about it. Surely that is sadness.

Mrs McARTHUR: You are a beef farmer?

Ms FANNING: Yes.

Mrs McARTHUR: How many beef cattle do you have?

Ms FANNING: At the moment we are running about 50 cows and calves.

Mrs McARTHUR: So you probably would be familiar with occasions when the cow has a difficult birth and they will discard the calf and will not look after it at all and will just leave it?

Ms FANNING: Yes.

Mrs McARTHUR: But in a farming situation the farmer will save that calf as best they can and feed it and rear it. As a calf left to nature, that calf would have died, so in nature there is cruelty, you could attest. That is how it works. So the farmer actually does a lot more than what would happen in the natural environment in many situations in the animal industry.

Ms FANNING: In many situations, yes. But then I have also seen that there are a lot of animals that calve and lamb without anybody overseeing what happens at all.

Mrs McARTHUR: And they can naturally do that very well.

Ms FANNING: Most of them.

Mrs McARTHUR: Can.

Ms FANNING: But you do see animals dead in paddocks with calves hanging out of them as well and heifers that have been joined too young and they are not overseen. So there is a lot of husbandry that goes on that is I think substandard.

Mrs McARTHUR: But would you be saying that most farmers would not want to have healthy stock on their property? Because if they do not have healthy stock they will not be productive and they will not make enough income to even survive.

Ms FANNING: I would say yes, most farmers want healthy stock on their property.

Mrs McARTHUR: Exactly. You have made some sweeping statements about how you often see large-scale farmers being very uncaring towards their stock. How often is this?

Ms FANNING: I once counted. I used to drive down to Bairnsdale regularly, a 2-hour trip, and I remember one day deciding to quantify that and I counted individual farms as I drove down the mountain. I asked myself, 'Would I want to be an animal on that farm?', and for more than 50 per cent I came up with a no.

Mrs McARTHUR: Can I just ask also, you said you think the lobbyists for the farmers have been unnecessarily creating fear in the community, but we have heard from people presenting on farms of various sorts that that fear is very real. They have had to move off their farm because they do not feel their children are safe. Do you not accept that there is real fear on farmers with the threat of activists coming onto their farm and where they have come onto their farm in fact with black balaclavas?

Ms FANNING: Yes, I think there is real fear, but I think a big part of that fear is being generated by some of the things that we are seeing in the media—if you look in the Weekly Times, how to make your farm activist safe. As I said, especially from the extensive industry—if farmers in the extensive industry are looking after their stock. It is very unlikely that they are going to get invaded by activists. That is my opinion anyway. And again there are activists and there are activists. I mean, I would never be disrespectful to anybody, I would never break into anybody's house and I would never intimidate anybody. And so I just want the Committee to be aware of both sides of that."

Additionally, Bill Baxter, a person who has or has had farming interests, gave evidence on the same day. His evidence in regard to animal welfare included this comment, which fortifies the point of view where animal welfare is viewed via a monetized lens:

"In terms of farmer attitudes, I would like to scotch this view, if I could, that seems to be abroad, that farmers see animals as profit centres and have no regard for their welfare whatsoever. That is absurd. Farmers know that a happy animal is a profitable animal. An unhappy, ill-treated animal is not profitable to anyone. Most farmers are up all hours of the

day, and night at certain times—not every night of course—tending to sick animals, helping with births and so on. They do it not because they are going to make an income out of it—yes, they are at the end of the day—but because they have animal welfare at heart.”

Conclusion

There are a range of challenges, as well as a range of people within the farming community who have different views and practices about animal welfare and their responses to it. What the two extracts of evidence show is that the two points of view will be difficult to reconcile. There are value judgements imbedded in them.

Also, what is clear, is that the current situation with regard to the animal welfare debate isn't helping either side of the debate. There needs to be a de-escalation of tensions and a redirection of people on both sides of the debate to find a solution to addressing real and perceived concerns.

2. Biosecurity risks

Biosecurity was a recurring theme throughout the enquiry. Much was made of the risk that activists pose to farms due to unauthorized entry or access to farms. The farming community stridently argued that this poses risks and threats to the spreading of disease on farm which could have catastrophic consequences to livestock. In some instances biosecurity laws are seen as a shield rather than a sword.

In other jurisdictions such as NSW, efforts have been made to strengthen biosecurity laws. Beginning at para 3.3 and a further discussion at 4.5, there is a detailed overview of various biosecurity laws. As a framework these laws include the Livestock Management Act 2010, the Livestock Disease Control Act 1994.

For the purpose of this minority report it is worth restating the penalties that currently exist under these laws:

Act	Penalty	Penalty units
Livestock Management Act 2010 S.50	Maximum Penalty \$9913	60 penalty units
Livestock Disease Control Act 1994 s11 (quarantined areas) moving animals in or out of a declared area without authorisation from an inspector	\$9913 maximum penalty	
s12 (quarantined areas) moves, exposes or undertakes other specified activities with a diseased animal	\$19,826 maximum penalty	120 penalty units
S24 & 25 (once quarantine declared and in regard to exotic diseases) Moving livestock, products and feed in/out of declared areas without permission	\$59,480 maximum penalty	360 penalty units and/or 36 months jail

These offences clearly relate to when an outbreak of disease (whether exotic or endemic) has been declared.

Evidence

In Warrnambool on 17 September, 2019 Ms. Katherine Cain, a farmer, gave evidence at the hearing. Her evidence clearly outlines the very real and tangible fear that exists amongst the farming community about disease outbreak:

“The risks activists pose by unlawfully entering farms and removing livestock is also one of the biggest threats to biosecurity in this country. Livestock illegally removed from farms becomes untraceable and if an infected animal is untraceable, the source and spread of disease becomes impossible to determine. If an exotic disease was to spread across our state or country, the results would be catastrophic. There are regulations that farmers must adhere to regarding the transfer of livestock between properties and certain procedures we all practise to reduce the risk of disease spreading that are certainly not undertaken by activists.”

However, this evidence also needs to be contrasted with expert evidence given by Associate Professor Robinson, who conceded that biosecurity risks can also come from other avenues other than people entering a property (*emphasis added*):

Mr MEDDICK: Look, we have had a number of hearings, as you are probably aware, in various places—here at the Parliament and also out in the country areas. One could be forgiven, if you were a casual observer from the outside, for thinking that our biosecurity levels on farms in Victoria are so high that every single animal—be it a chicken, a cow or a sheep, every time they move from farm to farm through a sale, one farmer buying another one’s stock et cetera or whether they go from farm to saleyard or from saleyard to slaughterhouse—has their feet doused in some sort of antibiotic or that they are washed down or that the trucks themselves, the trays that they go on, the ramps, every single one of them, are completely sterile. That is just simply not the case, is it? Because we have all seen trucks driving down the road and all sorts of effluents and dust and things flying out. We have all seen the trucks that leave farms. The animals are just loaded straight up from where they are in the paddock, in the holding pen, going straight onto that truck and going out the gate. We have all seen that. But one would be forgiven for thinking that is not the case. Given that these movements of animals, wherever they are going to, number in the millions per year, versus how many people might partake in unauthorised farm access—and I note that you are from the Centre of Excellence for Biosecurity Risk Analysis—can you please weigh up for me the amount of risk that one represents versus the other?

Assoc. Prof. ROBINSON: No, I cannot.

Mr MEDDICK: Thank you.

Ms BATH: Thank you, Professor, for being here today. What we have heard at a variety of our hearings, in Warragul, Bairnsdale, Warrnambool and Horsham, is certainly that when illegal on-farm trespass occurs, often very early in the morning, but not always—and also at abattoirs, we have also heard—the participants, I will say, are often in black clothing. They will wear boots, that are certainly their own, I am assuming—there are no white lab coats and covered boots. This certainly can be a pathway for pathogens to go on farm or on livestock enterprise. What I would like you to do, and you can pick any of your favourites, I guess, is show the pathway of a pathogen—I will pick Q fever, if that is something that you know, or another entity; that would be fine— how it can spread and at what magnitude it can spread.

Assoc. Prof. ROBINSON: That is a great question, but it is quite a complicated modelling exercise if I were to do it to my satisfaction. But I am happy to trace out the broad scale and steps. It is known that, for example, wildfowl populations are infected with—not all of them, but many of them—a low-pathogenic avian influenza, so wild ducks and wild geese flying around the country. And there is nothing we can do about it; they just have this disease. Now, these animals will arrive at dams on farms and they will do

what ducks do—they will defecate everywhere. And if that dam is then accessed by poultry, then the poultry, the chickens, sometimes will eat the matter and there can be a transmission of the avian influenza to the chickens. And then the chickens, the flock itself, become essentially a breeding magnifier for the avian influenza. And then a person who might arrive at that poultry installation could walk through the area where the chickens are being held and pick up soil or faecal matter, pick it up on their boots and then move to another place and deposit it again. Does that answer your question?

In Victoria

According to the Agriculture Victoria submission, the Commonwealth Govt is responsible for monitoring biosecurity risks pre-border and at the national border.¹

In a recent edition of VetWatch in April 2019 contaminated product was intercepted:

“... This was highlighted by a recent testing of confiscated meat products, originating from China, at the Australian border which resulted in 40 positive results for African Swine fever from 283 samples taken...”²

During the Inquiry, Mr. Rosier from the Agriculture Victoria gave this evidence under questioning from Mr. Barton about biosecurity risks (*emphasis added*):

Mr BARTON: Good morning, Michael. I wonder if you can tell me: has there been a biosecurity incident because of activists in the last five years?

Mr ROSIER: Agriculture Victoria is not aware of a biosecurity incident directly linked to activities by activists, so we do not have data around that. What I would say is it is potentially a risk— Mr

BARTON: I understand.

Mr ROSIER: around illegal trespass and associated risks on site. I understand there has been some discussion around things like exotic animal diseases. That is an issue if they are there in the first instance. Certainly we do not want anything like that occurring in this country. I am talking about significant things like African swine fever—there is a lot of media around that at the moment, particularly with the spread of that internationally—foot-and-mouth disease, those sorts of risks that are generally known but are also not esoteric things. There are legitimate risks around diseases like that potentially coming into Australia. You only need to look at the UK experience back in 2001 around that. That still remains to this day I think the largest logistical exercise since World War II for that country. It delayed a general election and all sorts of things. The potential risk around exotic animal diseases I think is always a consideration. The reason I mention it is because if you do get something like that—and knock on wood we do not—then one of the very first things you are trying to do is contain it and make sure it is not inadvertently spread. That is really important to re-establish market access, so that is why I mention exotic animal diseases. The endemic ones I think are something that have perhaps not been talked about a lot. There is a risk of people potentially—through mixing with livestock and opening gates, that sort of thing—creating a transfer of endemic disease even within a herd on a property. Sometimes producers will very deliberately segregate parts of their herd because they have different disease statuses or have been treated or there are new stock on the property; there are reasons why they do that. However, people that may be coming onto that property may not be aware of the biosecurity practices and the things occurring on the property, so that may inadvertently result in some of those things occurring. To answer your question: no, we do not have clear evidence of that at this point. It is always something that is a consideration and a risk.”

¹ Department of Agriculture – submission to Animal Activists Inquiry pg 4
https://www.parliament.vic.gov.au/images/stories/committees/SCEI/Animal_rights_activism/Submissions/S419_-_Department_of_Jobs_Precincts_and_Regions_Redacted.pdf

² VetWatch, April 2019, Agriculture Victoria, Chief Veterinary Officer. <http://agriculture.vic.gov.au/agriculture/pests-diseases-and-weeds/animal-diseases/vetsource/vetwatch/april-2019>

There was no evidence received by the inquiry that supported the view that exotic diseases outbreaks have occurred in Australia due to animal activists visiting farms.

What helps is that we are an island nation with strong border controls and protections at customs that pick up anything before it comes in. This does not mean we should be complacent however. Border control/protection is a commonwealth government responsibility. However, this is not the case for European countries as they have no border separation.

There are endemic diseases that are found in and around Victoria. They are controlled and treated when reported. This is not considered exceptional. An example is provided in the VetWatch report as cited earlier. In that publication on page 6, it is noted:

“

- There were 102 investigations to exclude suspect emergency or exotic diseases between 1 December 2018 and 28 February 2019.
- There were no confirmed cases during that period.”

However on page 9 of the VetWatch newsletter, it was reported:

“thirteen of 100 adult home bred Angus cows died and more than 40 head were clinically affected by theileriosis on a property in the Upper Murray of north east Victoria in November 2018.

...

Since becoming endemic in 2010 theileriosis is not an unusual disease in north-east Victoria. However, the scale of this outbreak was abnormal. There are a number of factors that may have contributed to the size of this outbreak:

- Inherent poor health of this herd, resulting in reduced immunity
- A lack of recent exposure to *Theileria* spp and
- The recent exposure to very high numbers of *Theileria* spp due to favourable environmental conditions for its intermediate host.

...

Ongoing work is being carried out to ascertain whether a novel strain of theileria was involved. The producer was presented with several recommendations, such as improving overall herd health.....”

What is clear from the above, is that:

- When a disease outbreak is notified there is swift action taken by Agriculture Vic to assist farmers with the control and treatment of their animals;
- There has been no exotic disease outbreak in Australia for at least 5 years or more attributed to animal activists;
- As noted by Associate Professor Robinson in his evidence, birds can also transmit diseases from farm to farm. It would be difficult to ascertain in some situations how transmission of disease occurred;
- The above extract of evidence also accords with Ms. Fanning’s evidence about bovine herd health and animal welfare concerns;
- Again the issue of fear arises where farmers are extremely concerned about biosecurity breaches, yet there is no evidence that activists have caused any biosecurity breaches.

Additional Assistance for Farmers

- Government announced in July 2019 that a partnership with the Victorian Farmers Federation and Agriculture Victoria is working with farmers to assist them to respond to any biosecurity issues and animal welfare concerns.
- Over the course of the next 12 months, the partnership will pursue two projects to build community confidence in agriculture:
 - Providing \$190,000 to the VFF to engage staff to work with farmers to respond effectively to animal welfare and biosecurity issues.
 - Providing \$710,000 to deliver a consumer-focused communications and engagement campaign to back farmers in Victoria.
- The Government has worked with Victoria Police to create a specialised farm crime unit that will work across Victoria targeting farm crime, including illegal animal activism.
- The unit will be led by Inspector Karl Curran, who will oversee a team of more than 70 new Farm Crime Liaison Officers, previously known as Agricultural Liaison Officers (AGLOs) and additional administrative and coordination support.

Conclusion

There is no justification for the introduction of a \$1,000 on the spot fine for animal activists for biosecurity breaches as there is no evidence that shows activists have been responsible for spreading diseases or contributed to outbreaks of disease.

There are rigorous penalties already in place as set out in Victoria's Biosecurity framework laws. This view was also supported by the RSPCA and LIV.

Regardless, the Government is moving to support farmers and has committed to resourcing and assisting them in dealing with animal activism concerns that have arisen from perceived biosecurity risks or threats.

3. Regulatory Framework for Animal Welfare including POCTA and Codes of practice, other regulatory bodies such as Agriculture Victoria and statistics on animal welfare complaints.

By and large, there was consensus, about the need to update and review the Prevention of Cruelty to Animals Act and the codes of practice that sit underneath it.

Provided below are some examples of legal slaughtering practices which were covered in the Law Institute of Victoria submission. By most standards today, these practices would be viewed by most non-farming community members as cruel and/or inhumane. The submission also notes information about the actions of animal activists when on farm.

In regard to Luv a Duck, the Law Institute of Victoria noted in its submission to the inquiry (*emphasis added*):

"Luv-a-Duck In November 2018, a group of 70 animal activists entered the Luv-a-Duck abattoir in Nhill, Victoria, following claims that hidden camera footage showed the facility used improper stunning

techniques during the duck slaughtering process. The activists trespassed, took footage and then stole 19 ducks from the abattoir. Police stated that the protest ended peacefully without incident, and while police spoke to activists about trespass, no arrests were made.

Luv-a-Duck has been on the radar of animal activists for several years. In 2012, complaints of animal cruelty were forwarded by activists to Animal Liberation and the RSPCA. However, following inspection, Animal Liberation advised that Luv-a-Duck were in fact operating within the law, although commented the laws on intensive farming systems such as Luv-a-Duck was 'cruel, albeit lawful'.

The following year, in 2013, Luv-A-Duck were fined \$360,000 for making misleading claims that their ducks spent a substantial amount of time outdoors, which was found not to be the case. The Court also ordered Luv-a-Duck pay \$15,000 towards the ACCC's costs."

This submission highlights yet another area where community expectation and approved and lawful practices jar against each other. There are legal slaughtering practices that exist in Victoria that are provided for under codes of practices. Some of those codes have not been reviewed in many years. Whilst these practices may be legal, community expectations around the treatment of animals view them as concerning.

Lawful but is it humane by community standards?

From an educative point of view, it is important that the community understand how animals are produced and processed for food consumption.

To demonstrate this point, I have included an extract from the current Code of Accepted Farming Practice for the Welfare of Poultry.

The Code of Accepted Farming Practice for the Welfare of Poultry Note Number: AG1143 from the Agriculture Victoria website states lawful practices in regard to hatchery management:

"14. Hatchery management

14.1 Culled or surplus hatchlings awaiting disposal must be treated as humanely as those intended for retention or sale. They must be destroyed humanely by a recommended method such as carbon dioxide gassing or quick maceration and thoroughly inspected to ensure that all are dead.

14.2 Hatchery waste, including unhatched embryos, should be destroyed quickly and effectively.

14.3 Hatchlings should be brooded within 48 hours of hatching. Weak, deformed and unthrifty birds should be culled and destroyed humanely."

And further in regard to transport of poultry, it is stated:

15. Transport of poultry

Transporting birds is stressful for them. Care must be exercised to ensure that poultry are not subjected to unnecessary stress during catching, loading, transportation and unloading. Information on transport of day-old birds, growing and adult poultry is available in the Victorian Code of Practice for the Land Transport of Poultry."

Most people are unaware that male chicks or deformed chicks are ground up by a macerator – live. This is a shocking practice – but it is lawful.

To access a full copy of the code of practice click [here](#).

Animal welfare and farming

Below are extracts from evidence given by Judy Leadoux from Leadoux Turkeys. Her farming operation is a great example of combining high quality animal welfare practices with high quality slaughtering practices. Headings have been inserted to assist the reader to find the relevant aspects of the evidence given:

“Mr GEPP: Thanks for joining us today and thank you for your submission. You talked a lot about the stress of the birds and making sure that their welfare is paramount and that that is something that is at the core of your business. What sort of standards do you rely upon and advice within the industry and the broader animal welfare industry?

Ms LEADOUX: We are governed by PrimeSafe both in the yards and in the—

Mr GEPP: Do you want to talk us through a little bit about what that looks like, those standards?

Housing, slaughter and humane practices

Ms LEADOUX: Without having the standards right in front of me, basically it is just that the birds have plenty of room and plenty of water and are not stressed from heat or cold. When they are brought in to be slaughtered they are not to be mishandled, and this is all documented in the PrimeSafe manual. When they are actually slaughtered you either have to stun them or completely sever the head in one go, and that cuts the spinal cord so they do not suffer. We sever their heads. From then on they are dead.

Mr GEPP: Do you do that on farm?

No transportation involved and onsite abattoir

Ms LEADOUX: Yes, we have a licensed abattoir on the farm, and this is why I say they do not have any stress when they are actually taken to slaughter, because they are just walked across. As they are walking they are picking up a few stones and whatever, and it is actually really relaxing, yes—for us and for the birds.

Mr GEPP: How many birds do you have on farm?

Ms LEADOUX: We grow about 10 000 a year. We would probably have about 2500 at a time.

Mr GEPP: Right, and at what age are they slaughtered?

Welfare of staff and birds

Ms LEADOUX: Depends what we need the bird for. The hens we use mainly for whole birds and buffets. Nine weeks and two days will give us a 4-kilo dressed turkey, and they are putting on around about 180 grams a day, which equates to about a kilo a week. We take the hens through to about 15 weeks. The toms we usually start slaughtering at 15 weeks. The hens we do not take any older because, a bit like us, they go too fat and do not get bigger.

...

Ms LEADOUX: The toms we will dress out at 15 weeks at around 14 kilos, and we take them through to 18½ weeks. They just get too heavy for the staff to handle them. So it is not only welfare for the birds; it is welfare for the staff as well.

Transparency

Ms BATH: Judy, the Aussie Farms Facebook post on the 13th of this month has said:

Here's the fundamental question: if farmers are so proud of what they do, why do they want to do it in utter secrecy?

What is your response to that sort of commentary? What do you believe are the facts actually?

Ms LEADOUX: There is no secrecy about my farm. People can see it from the road. There is a water tank up there that the fire brigade access and so there is a little track there, and we get people who come along and stand there at the fence. Of course when that happens the birds all run up, inquisitive; they are very friendly. My farm is not clouded in secrecy. If anybody wants to come to my door and say, 'Could we have a look at your operation?', I have no hesitation in showing people what we do."

Statistics on animal welfare complaints

Agriculture Victoria

On page 6, the Agriculture Victoria submission August 2019 provided a statistical overview of animal welfare complaints as set out below:

“

Summary of responses to animal welfare issues

- From 2015 to 2018, Agriculture Victoria responded to 4248 livestock animal welfare issues, including alleged cruelty incidents, disease-related welfare issues and emergency events such as bushfires and livestock transport accidents.
- In 2018, there were 1485 alerts recorded, of which approximately 40 per cent were substantiated (this is consistent with previous years trends). In that year, 496 regulatory outcomes were applied, including 494 regulatory letters, 182 Notices to Comply and two prosecutions.
- Two prosecutions in 2018 resulted in an approximate combined total of \$22,000 in fines, 100 hours of community corrections orders and one control order being issued by the court. Table 3 provides a breakdown of Agriculture Victoria's animal welfare investigations in 2018.

More information about Agriculture Victoria's livestock animal welfare compliance activities is provided in the annual *Animal Health in Victoria* reports. These reports are available on the Agriculture Victoria website at <http://agriculture.vic.gov.au/agriculture/animal-health-and-welfare>.

Table 3: Animal welfare investigations conducted by Agriculture Victoria, 2018

Species	Number of Investigations
Alpaca	13
Cattle	647
Goat	45
Horse	19
Pig	21
Poultry	56
Sheep	535
Mixed	128
Other	121
TOTAL 2018	1,485

”

What should be borne in mind from the table 3, is that the figures of reported animal livestock issues occurred between 2015 to 2018 – not over 1 year. The table above also highlights a clear majority of cruelty cases being reported/investigated are in regard to cattle. The next largest cohort is sheep.

Regard can also be had to the information set out later in this report by the Sentencing Council and their 10 year review of animal welfare offences which can be found at paragraph 6 of this report.

Further regard should also be had to Ms. Fanning's evidence set out earlier in this minority report in regard to the frustration she experienced over many years in reporting to authorities again and again, instances of either animal welfare concerns, and in her view, without action. She also

addresses in her evidence her view on appropriate resources in this area. Again, Ms. Fanning's evidence is compelling, balanced and persuasive.

At various times throughout the hearing, commentary was made or raised about whether Agriculture Victoria could have a potential conflict of interest in having a dual role in ensuring standards are upheld when at the same time having responsibility for prosecuting offences under those standards or laws. I don't believe the issue was resolved in any conclusive way.

Victoria Police

At the public hearing on 23 September 2019, Superintendent Greaney gave evidence on behalf of Victoria Police. Under questioning from Mr. Meddick, Superintendent Greaney was asked questions in regard to farm theft, trespass and other farm crime (*emphasis added*):

"Mr MEDDICK: Thank you, Superintendent, for all your years of service. Clearly you are the right person for the job, given your experience right throughout western Victoria and rural communities. I just have a few questions. The first one is: when conflicting laws appear to have been breached, such as animal welfare on one hand and property on the other, how do your members prioritise which laws to enforce? You can come back to that one in a moment if you like. I am also curious about this task force that has been formed that you are part of, and you talked about livestock theft as one of the things there. But I am curious about also the amount of livestock theft that you have investigated or anticipate investigating from a large scale. I hate to use this Americanism but this term 'cattle rustling', for instance. From what we have heard as a Committee, throughout the whole of Victoria this is quite a decent crime, the large-scale theft of livestock, versus what animals might be taken under unauthorised farm access—so sheer numbers—and how that balances up also with theft of equipment from farms. How much of that is happening? How much firearm theft is happening? Then also just the final two questions: when you have encountered, or your members have encountered, those taking part in unauthorised farm access, have they ever in your experience or their experience reported back to you that these people have ever been violent? Have they been generally compliant—and I mean generally—with police instruction?"

Supt GREANEY: There are a lot of questions there.

Mr MEDDICK: Well, it is a very large subject.

Supt GREANEY: As I said before, anything that we investigate, whether it is a protest or a trespass or a theft, it will depend on the circumstances in regard to how we investigate that, so I am not quite sure what you mean around conflicting laws. Our police know what laws they operate under, so obviously we do operate under state and Commonwealth laws, *but generally with issues around livestock theft, farm crime, activism, they are state laws that we operate under and we know what we need to do. As far as the capture of data goes, it is quite difficult to interrogate the data around whether the theft of a sheep at a farm is actually the theft of a sheep for other purposes or it is the theft of a sheep for the purposes of animal activism to save it. We would need to actually interrogate each incident that has been reported in regard to checking narratives to determine whether it is actually a theft, as in, 'I'm taking a sheep to put on my own farm', or 'I'm taking a sheep to slaughter', or whether it is actually a sheep taken as part of an animal activist task or role, if that helps you at all.*

Mr MEDDICK: And the behaviour of on-farm trespassers?

Supt GREANEY: Certainly there is no large-scale violence that I am aware of, but once again I would have to sort of check. But certainly anecdotally there are no large-scale acts of violence from activists.

Mr MEDDICK: Will recorded acts of animal cruelty fall within your task force?

Supt GREANEY: That is an Ag Vic role I guess as far as livestock goes and also the RSPCA. But we certainly have memorandums of understanding in regards to those organisations in regards to assisting them with those particular activities.”

In response to a question on notice at the public hearing on 23 September 2019, Victoria Police provided additional information about a question regarding the recording of data on animal theft due to animal activism. An extract is provided below:

“Public Hearing 23 September 2019 - Response to question taken on notice. Question: What proportion of animal theft occurs due to animal activist activity?”

Response: It is not possible to determine with certainty the proportion of animal theft incidents that are due to animal activist activity.”

Victoria Police records data about all reported incidents of animal theft; however, animal theft incidents are not consistently recorded by police as being due to a given ‘activity’, including animal rights activist activity. This information is recorded when it is detected by police or reported to police. Victoria Police is aware of the following factors that may reduce the quality of information available on incidents of animal theft:

- animal theft from agricultural properties is underreported to police
- animal theft may not be immediately detected due to factors including the isolation of some agricultural properties and intervals between stock counting. This can lead to a delayed reporting of animal theft to police
- in cases of delayed detection and reporting to police, the circumstances of animal theft incidents may be unknown.”

Finally, in regard to incidents of animal activism Minister Jaclyn Symes stated in May 2019:

“In May 2019, Agriculture Minister Jaclyn Symes stated that in the previous 12 months, there were two instances of trespass in western Victoria, three in the east and six in the south. This is in addition to 14 animal activist protests that did not involve trespass across the state. It is worth noting there were no reported incidence involving violence or damage to property during any of these reported events.”³”

An overarching Animal Welfare Agency

There was broad support for the creation of an Office for Animal Welfare Agency which would have oversight in regard to animal welfare. Proceeding to a Federal agency might delay the development of such an agency. Reform at a Federal level on the broader issue of animal welfare has been glacial at best.

Resources and regulatory oversight

There was also broad support for increased resources and more assistance in regulatory oversight throughout the hearing.

Animal welfare offences

Additional animal welfare offences could be considered around animal welfare where activists remove animals without authorisation. It is well document by many witnesses in this enquiry the impact that removing an animal from a herd or from its mother can have. Should this occur, then animal welfare laws have a role to play. This means that both sides share equally in ensuring animal welfare is upheld.

³ <https://www.stockandland.com.au/story/6110510/minister-allays-activism-fears/>

Sentience

This quote is taken from the RSPCA website and best sums up the development of animal sentience:

“Animal sentience is the capacity of an animal to experience different feelings such as suffering or pleasure. Negative feelings or emotions include pain, fear, boredom and frustration, whilst positive emotions include contentment and joy. Sentience also extends to an animal’s ability to learn from experience and other animals, assess risks and benefits and make choices. These abilities rely upon animals being aware of changes happening around them (also known as perception) and being able to remember, process and assess information to meet their needs (also known as cognition).

It is generally accepted that humans are sentient but over time there has been a shift in acknowledging that other animals are also capable of experiencing different emotions. This was first recognised in vertebrate animals with recent scientific evidence that some invertebrates are also sentient. Animal sentience was first recognised centuries ago but has only in the last few decades been explored scientifically and included in animal related policies. In 2008, the signing of the Treaty of Lisbon officially acknowledged animals as sentient requiring full regard to their welfare requirements in the European Union. In 2017, the Victorian Government published the Animal Welfare Action Plan, which acknowledges animals as sentient. New Zealand, Canada, and the Australian Capital Territory also recognise sentience in legislation. When considering animal welfare, it is understood that the word ‘animal’ refers to sentient animals.”⁴

Members of the farming community acknowledge this point, albeit not directly, but through their own lived experiences.

Again, turning to the evidence of Bill Baxter given to the enquiry, Bill noted (*emphasis added*):

“Now, if I could just give you one anecdote that involves myself—but I think it is a sentiment that most farmers would adhere to—soon after I left school, and that is over 50 years ago now, we were shearing at home on the farm. There was a ewe that had a black-and-white lamb about a fortnight old—and yes, it was cute. One of the shedhands asked my father if he could take that lamb home for his children. My father, with some reluctance, agreed to it. *I was really concerned—and I still remember it 50 years later, so this is indicative of my concern— not so much for the welfare of that lamb, because I thought once the novelty wore off with the kids, who would look after the lamb, but I was also concerned about the ewe, the mother of the lamb, who would spend a frantic two days searching for that lamb before she concluded that it had disappeared. And as I say, that incident— haunts is too strong a word, but the fact that I remember it after 50 years because I thought it was not right, it was not fair to the lamb and it was not fair to the ewe, I think indicates that farmers by and large do want to look after their animals.*”

It is clear from the recitation of the preceding story, that the removal of a lamb from the mother caused distress to the ewe. This accords with the recognition that animals can and do feel some level of emotion and have emotional responses to events.

Conclusion

There is merit in exploring **other animal welfare responses that ensure animal sentience** is a factor in the determining high quality standards of animal welfare. Responsibilities can be given to both sides of the debate. Activists and farmers could ensure there is an equal responsibility in upholding animal welfare concerns from different viewpoints. This approach would also be consistent with the recognition of sentience by the Victorian Government in the Victorian Animal Welfare Action Plan developed in 2017.

⁴ <https://kb.rspca.org.au/knowledge-base/what-is-animal-sentience-and-why-is-it-important/>

Recording of data indicating whether a person is an activist or not is troubling and in accordance with the view of Victoria Police is not possible. It is also not helpful. Theft is theft regardless of which philosophical view a person holds when an offence is committed. The evidence suggests that a small percentage of farm crime is due to animal activists, but that poaching and other farm theft is a larger problem.

Transparency in slaughtering practices and in general will improve community education about how their food is prepared. Consideration be given to the use of mobile abattoirs as an alternative to animal transportation to reduce stress on animals being sent to slaughter in preference for on farm slaughter where possible. I support the recommendation of the committee in regard to the introduction of CCTV cameras in abattoirs.

Government should consider the development of a website that **showcases high quality farming and animal welfare practices** to attract consumers who are interested in supporting businesses who highly regard animal welfare. The development of an opt in website can allow agri-businesses or farms to publicise and/or highlight their commitment to animal welfare via their on farm practices. This will also utilise consumer choice to drive change and modernisation in farming practices for the consumer who is interested in purchasing products that have optimal animal welfare standards. Something similar exists with the RSPCA approved egg system. However, what is being suggested here could go further and be applied to other farm business as well.

Education for community members is important as people need to understand, that if animals for food consumption is required, then an animal will need to die for that to occur. Or where an animal product is required for consumption there are farming practices that are used in food production for that product.

Review and updating of POCTA and the codes of practices should be prioritized. Codes of practices should be considered mandatory and practices such as maceration of live chicks and blunt force trauma (hitting on head with a blunt object/instrument) as a legal way of disposing of calves should be discontinued as a matter of priority. I support the recommendations of the committee in this regard.

Support for innovation/new technology in farming could be considered to assist farming businesses to utilize alternative technologies where they exist for animal food production that don't involve the live birth of animals that are subject to destruction after they have served their purpose. Milk and egg production require animals to produce offspring to produce that food as the case may be. The young animals are superfluous to the end result and therefore young animals are disposed of as they have outlived their intended purpose. A shift to innovation in this area may also help to alleviate fears of being targeted by animal activists.

Government should consider the creation of an **overarching Animal Welfare Agency, regulation oversight and resources** to assist with the **investigation, reporting and prosecution** of animal welfare concerns or acts of cruelty. This is a recommendation of the Committee, in the full report which I support. However, the recommendation favours the creation of this agency at a Federal level. The creation of a new agency could include increased resources for an inspectorate with powers of immediate and unannounced entry similar to those which are given to WorkSafe inspectors. Agriculture Victoria in their supplementary submission indicated that these powers already exist and response times could be anything from 0-48 hours. However, it would be timely to review existing powers to ensure that they are adequate.

4. Community expectation around penalties for activists (trespass, theft, biosecurity etc)

The inquiry received a submission from the RSPCA in regard to penalties. On the last page of their [submission](#), the RSPCA conclude:

“RSPCA Victoria believes that current criminal and biosecurity legislation is adequate. Rather than introducing new legislation, enhancing enforcement of current legislation through intelligence gathering, compliance monitoring and police resourcing should be explored. As it has been proven that stricter regulation and penalties do not deter activists, it is important to focus on the issues that are driving the activist behaviour to prevent it from occurring in the first place. Research has shown that greater transparency improves public attitudes and confidence in industry treating animals more humanely. We believe that Government, as well as industry has a role to play in promoting this transparency by ensuring robust animal welfare systems are in place.”

Prosecution of activists

Agriculture Victoria in its submission to the inquiry provided statistical information on animal activists and any unauthorised activity. On page 6/7 of their submission to the inquiry, Ag Vic stated:

“

3. UNAUTHORISED ACTIVITY ON VICTORIAN FARMS AND RELATED INDUSTRIES

Animal activists utilise a number of methods in support of their cause, including many lawful activities. The focus of this submission in responding to the terms of reference relates to unauthorised activities or activities aimed at intimidating or interfering with the management of animals. In this regard, the activities of animal activists in Victoria in recent years have

included blockades, trespass, undercover employment and covert surveillance at commercial livestock farms and abattoirs, removing animals from business premises or farms and damage to property. Animal activists have disrupted farms, retail businesses, cafes and other food businesses that sell animal-based products. They have also targeted the websites of animal-related businesses.

Advances in mobile technology, prevalence of social media, and the ease of information sharing have changed the way these activities are organised, promoted and publicised.¹

From January 2017 to May 2019, Agriculture Victoria responded to 31 alerts about potential animal welfare issues from animal activism-related individuals or organisations. Seventeen of these issues were substantiated following investigations by Agriculture Victoria staff and 14 were unsubstantiated.

Victoria Police have advised that there has been 11 instances of protest and 11 instances of trespass relating to animal activism reported to Victoria Police over the 12 months (from May 2018 to May 2019). No reports of violence or damage to property from uninvited entry to farms or related businesses were made to Victoria Police during this time.

“

By any standard, the incidence of and likelihood of unauthorised farm entry due to activist activity is very low. Also, instances of protest and trespass related to activism over a 12 month period recorded 11 incidents with no reports of violence or damage to property.

Additionally at page 7 of their report, Ag Vic state that there are 21,000 farms in Victoria. The statistical likelihood of unauthorised farm entry or targeting is statistically lower than the risk of a house in a suburban built up area being burgled.

This however, is cold comfort to any person living on a farm in fear for their safety. The drivers for this fear response have been commented upon earlier in this report.

Trespass

Civil and criminal sanctions can apply for trespass offences. It is not my intention to set out the legal basis for either here in this report, except to say that trespass can only occur when certain legal criteria are met. There is also a misunderstanding of how this area of law works, with many witnesses pronouncing that someone trespasses on their farm when they enter. This is not strictly the case. Usually, a request to leave is necessary.

But again, the legal technicalities of this area of law don't assist a farmer who holds real and genuine concerns for their safety, that of their family and their livelihood.

The RSPCA submission on this issue and that of the LIV is persuasive. Education and transparency are in part, the best way to improving all community member's understanding of on farm practices.

Despite the above, it is important to acknowledge farming community and their expectations around fines and sentencing. As touched on elsewhere in this report, I believe that this has been fueled by inaccurate reporting around Gippy Goat Café and other matters.

I cannot support the committee's pronouncement contained in the first paragraph of 4.6 of the report in regard to trespass. The committee cannot and should not undertake the role of the courts. Any issue that is perceived to be offending laws, should be reported to the police and dealt with by the courts.

Whistleblowing

The Committee's finding in regard to Whistleblowing is not something which I can support. The application of legal immunity which may apply to someone arising from Whistleblower Legislation is a matter that is entirely for the judicial system. It is not a matter for this committee. The same reasoning set out under the heading of trespass applies to this matter as well.

Conclusion

Given the low incidence of offences recorded by authorities, there is no evidence that would justify an increase in fines, penalties or sentences in the areas of trespass, theft or biosecurity as they are adequate. The submissions of the LIV and the RSPCA in this area are persuasive in this area. The work undertaken by the Sentencing Council is also important and persuasive in this area as well.

5. The role of community campaigns and backlash - Fear and anxiety from the threat of unauthorised entry to farms

There have been a number of businesses that were focused on by activists to either obtain footage or to enter to record alleged incidents of animal cruelty. The Gippy Goat Café and Luv a Duck are but two. The incident at Luv a Duck was discussed earlier in this report.

One incident that received widespread attention was the Gippy Goat Café incident. According to Mr. Gommans as reported in an SBS article on *The Feed* in May 2019:

“They turned up at 6:30 in the morning and in the morning and immediately went to the petting zoo,” Gommans told *The Feed*.

“Half a dozen of them went into the yard, picked up the goat, loaded it into the back of the car, and took it away.”

This reporting of the incident does not indicate violence or damage occurred. And although Mr. Gommans was not present on the day he suggests that the incident caused distress to his staff.”

Mr. Gommans created an online petition to the Legislative Council recording 1381 signatures and was tabled in the Victorian Parliament in June 2019. The petition notes a request to:

“Shut down Aussie Farms website

Grievance

The Petition of certain citizens of the State of Victoria draws to the attention of the Legislative Council the urgent need for protection of law abiding farmers from animal activists, who are using the Aussie Farms website and breach farm biosecurity, steal livestock, damage or encourage property damage and trespass or incite trespass on law abiding Victorian farms.

Action

The petitioners therefore request that the Legislative Council call on the Government to revoke the Aussie Farms status as a charitable organisation, shut down the Aussie Farms website and implement stronger legal protections to appropriately penalise trespassers.”

A link to the Legislative Council petition can be found [here](#).

Mr. Gommans also gave evidence at the inquiry.

Aussie Farms Website

In regard to the Aussie Farms website, much has been made of the role that this website has played. Farmers have provided details of their farm addresses to Commonwealth agencies. Those details have been able to be accessed and replicated on the Aussie Farms website. Many in the farming community believe that this website was used to target farms. Some refer to the website as the “Aussie Farms attack map”.

Mr. Gommans was reported in the SBS *The Feed* article responding to concern around the publication of Cara Garrett’s personal information:

“Her name, address and location are court records, they are public documents, so I don't think that it's at all relevant whether her name appears on our Facebook site,” Gommans said.

Reporting on animal activism

As touched on earlier in this report, the reporting and commentating around the sentence handed down in the Gippy Goat Café has been inaccurate and or incomplete. I have previously made mention of the fullness of the sentence handed out to one offender earlier in this report. There

have been media reports as well as social media commentary, petitions and more. Almost every newspaper report cites with disgust and/or outrage the recording of the \$1 fine which was imposed on the activist in the Gippy Goat Café situation. However, the Stock and Land Report by Andrew Miller reported the court outcome accurately⁵.

Focusing on one offender in the Gippy Goat Café case, Cara Garrett received a good behaviour bond for her efforts as well as having to pay compensation to the court. Cara has been subjected to threats (including death threats) and abuse by persons unknown⁶. These threats have been reported in the media.

Cara is a relatively young person – 24 years of age at the time of the offence. These threats have created anxiety about personal safety for her. However, as I am not aware of all the facts in regard to this matter, I cannot comment in further detail about where these matters have landed or if they have resolved or referred for police investigation and/or assistance.

It is worth stating some of the threats sent to Cara as stated as detailed in this picture obtained via the SBS *The Feed* article from June 2019:



Threatening behaviour such as those detailed in the text messages above cannot be condoned. This occurred at the same time when farming communities were expressing concern about fear and anxiety arising the threat of unauthorized farm access by activists. Two wrongs don't make a right and for equity to be done one must have clean hands. This demonstrates the need for an urgent de-escalation of the tensions that have been inflamed between farmers and activists on both sides of the debate.

Evidence at the inquiry regarding the Gippy Goat outcome - inaccuracies

Bill Baxter's evidence in regard to the Gippy Goat Café sentencing was clear and unequivocal. It highlighted his understanding of what had happened (*emphasis added*):

"On the application of the law, I think if we look at two recent examples we can see that the magistracy does not seem to be attuned to what the community expectations are or to what the Parliament intended when it introduced those laws. If we look at the Gippsland Gippy Goat

⁵ <https://www.stockandland.com.au/story/5956942/gippy-goat-owner-appalled-by-court-outcome/>

⁶ <https://www.sbs.com.au/news/the-feed/this-woman-stole-a-goat-now-she-s-receiving-death-threats>

Cafe one, the perpetrator there was fined \$1. I mean, that is absolutely farcical that a fine of \$1 could be imposed. It is not even a slap on the wrist."

Another example was provided by Simon Ramsay, in his evidence on Tuesday 17 September 2019 at Warrnambool when he discussed penalties he said (*emphasis added*):

"In relation to another question about penalties, I have gone through what currently Queensland, New South Wales, Victoria and the Commonwealth have. *The issue was raised before. For the magistrates, even in the Summary Offences Act, to charge and apply a \$1 fine to a group of activists that caused economic loss in hundreds of thousands of dollars is a joke.*"

The understanding of the outcome of the case as cited by Mr. Baxter and Mr. Ramsay is incorrect and/or incomplete. This again fortifies the view about the role inaccurate reporting has played in this matter.

The Inquiry heard the same sort of factual errors repeated again and again throughout the enquiry in evidence arising from the witnesses from farming communities. Clearly some of these misunderstandings have emanated from politicised campaigns run to inflame tensions between farming and activists communities. This has not been helpful and it has led to heightened and intense fear of the possibility of activists coming on farm and how they might be dealt with by the legal system.

For the sake of completeness it is worth noting that in that case of the Gippy Goat Café, the offender in question, Cara Garrett received the following sentencing outcome:

- \$1 fine for removing an ear tag;
- An order to pay \$250 in compensation which was paid to the court within time (around August);
- A 6 month good behaviour bond – for theft.

Sentencing

The approach to sentencing outlined above appears to be consistent with other sentencing outcomes for theft where it has been a first offence or subsequent offence. Placing a person on a good behaviour bond is thought of as a first step in general deterrence

More information on sentencing outcomes can be found in the **Sentencing Council Annual Report 2018-2019**. You can access the report [here](#).

Sentences for Animal Cruelty Offences also analysed – first ever review

Sentencing for animal cruelty cases was analysed for the first time this year by the Sentencing Council. On page 23 of the Annual Report it was noted (*emphasis added*):

"Animal Cruelty Offences

In February 2019, the Council published Animal Cruelty Offences in Victoria, the first ever review of how animal cruelty offenders are sentenced in Victoria. The report was developed in response to increasing interest from government, key stakeholders and the community about how the criminal justice system responds to animal cruelty.

Based on court data for the 10 years to December 2017, the report found that nearly 3,000 charges of animal cruelty were sentenced in over 1,100 cases. Between 50% and 75% of those animal cruelty

offences involved neglect-related offending, such as failing to provide proper food, drink, shelter or veterinary treatment to an animal.

Other key findings included:

- most animal cruelty offenders were male (75%), one-quarter were female (25%) and just five were corporations (<1%);
- more than half of all animal cruelty cases in Victoria were prosecuted by RSPCA Victoria (53%), while the remaining cases were prosecuted by Victoria Police (31%), government departments with oversight of offences against agricultural animals and wildlife (11%) and local councils (5%); and
- the most common sentencing outcome for an animal cruelty offence was a fine (60% of offences) with an average value of about \$1,400, while 4% of offences received a term of imprisonment with an average duration of three months.

The report further found that 15% of animal cruelty cases were flagged as involving family violence. Those offenders were four times more likely to receive a prison sentence than other animal cruelty offenders.”

Arising from the above paragraph, and in summary, agencies undertaking prosecutions were noted as:

- the RSPCA Victoria as prosecuting just over half of all animal cruelty complaints (53%),
- Victoria Police are prosecuting about (31%),
- government departments with oversight of offences against agricultural animals and wildlife are prosecuting (11%); and
- local councils are prosecuting (5%).

Findings of note

- The findings in the report as set out above also fortify Ms. Fanning’s evidence about farm related animal welfare concerns and neglect as being a problem.
- Also of note is that in the above findings by the sentencing council was that only 5 corporations were charged with animal cruelty offences in the 10 year review period.

Community Engagement and education by the Sentencing Council

In addition, the Sentencing Council has undertaken various community engagement exercises to understand community views and expectations around sentencing.

In their research report, ‘**Is sentencing in Victoria Lenient?**’ released in August 2019, the project found that once community members understood the approach the judiciary had to sentencing, community members, by and large agreed with sentences handed down by the judiciary.

The project also conducted community education and ‘you be the jury’ projects to improve community understanding of sentencing laws. One community consultation occurred in Gippsland.

Key Findings of the Victorian Jury Sentencing Study

Researchers conducted a three-stage study on jurors’ views of sentencing in Victoria. The report found, amongst other things:

“Overall, 62% of jurors would have imposed a sentence that was more lenient than the judge, while 2% would have imposed a sentence of equal severity. The difference was not minor: overall, jurors

imposing a prison sentence were more lenient than the judge by an average of 12 months. Jurors (16%) were also more likely than judges (8%) to suggest a non-custodial sentence.”

For more information or detail on this project, you can view the report [here](#).

Conclusion

There is extreme tension that exists between sections of the farming community and animal activists which is concerning. No good can come from efforts to inflame or provoke a reaction or response from either side. The best course should really be a focus on resolving tensions and developing a greater understanding of the needs and interests of either side.

Community education about sentencing regimes may be beneficial in helping community members to understand how the judiciary approaches sentencing. Increased education is clearly indicated as an important issue in resolving tensions between activists and farmers. Government should consider further **community engagements** amongst farming communities and activists in an effort to ease tensions.

I do not share the view reached by the Committee in 4.3.1 of the report in regard to judicial education.

6. Things left unexplored

In my view, there were issues or themes not dealt with at all or superficially which could have also informed the deliberations of the committee. Some of these limitations arise from the narrowness of the terms of reference for the inquiry. There was a lack of:

- Direct evidence provided by employees who work on farms about health and safety concerns that they may have experienced as a result of unauthorised entry on farms by activist;
- Ability to receive information and/or exploration of how farmers could potentially use science, technology and innovation to reduce unnecessary production of animals to produce food;
- Information as to whether employees who work in slaughter houses are trained and could benefit by receiving proper, adequate and appropriate training in correct methods for animal slaughter/butchery;
- Consideration around mental health support for farmers and abattoir workers. As an industry, abattoir workers have high rates of PTSD, PITS and other associated disorders and behaviours arising from having to kill animals;
- Evidence about whether any losses incurred by unauthorized entry onto farms by activists were or could be covered by insurance.

In my view this presented a lost opportunity for the committee to explore these themes further.

7. Comments on findings and recommendations

Comments below highlight reasoning for agreeing or disagreeing with either the finding or recommendation.

FINDING	COMMENT
FINDING 1: The actions of animal rights activists when trespassing onto agricultural properties to gather	d. of the terms of reference are problematic in that it asks the committee to find civil or criminal liability of individuals and organisations who promote or

FINDING	COMMENT
information cannot be considered whistleblowing.	organise participation in unauthorised animal activism activities. The only relevant authority to find any type of civil or criminal liability are the courts. It is not appropriate for the committee to make findings of this nature.
FINDING 2: Regulatory bodies in Victoria do not collect data that distinguishes between livestock theft committed by animal rights activists and livestock theft committed by non-activists.	Agree in part. Agree that there are no stats that distinguish between activist theft and livestock theft by others. However, disagree in the sense that that there is no need to collect data to distinguish which philosophical belief a person holds when stealing.
FINDING 3: Acts of trespass, including the threat of trespass, by animal rights activists have caused physical and mental distress to many people in the agricultural industry, including farmers, their families and employees.	Agree in part. Unauthorised entry on to farm has caused fear and distress to some members of the farming community. This reaction has been worsened by inaccurate commentary and reporting about the incidence and frequency of activism on social media and some media outlets.
FINDING 4: For farmers and staff who reside on a farm, the whole property is their home.	Agree.
FINDING 5: Animal rights activists who trespass onto agricultural facilities pose a biosecurity risk. All people who enter agricultural facilities must consult with property owners or managers and comply with their biosecurity protocols.	Disagree. There are two parts to this finding. As to the first part: There is no evidence to support this conclusion. As to the second part: Agree. This will help track and minimise any biosecurity risks from disease.
FINDING 6: Acts of trespass on agricultural facilities by animal rights activists are a risk to the health and safety of farmers, agricultural employees, livestock, emergency services, the public and activists themselves.	Risk posed by animal activists trespassing: <ul style="list-style-type: none"> • health and safety of farmers – no direct evidence of this; • agricultural employees – no direct evidence of this; • livestock, • emergency services – no direct evidence of this, • the public – no direct evidence of this; • activists themselves – no direct evidence of this. Disagree with finding as no evidence was provided about this citing examples where health and safety breaches were recorded or logged with WorkSafe Victoria.
FINDING 7: The penalties handed out following incidence of trespass and theft at the Gippy Goat Café did not meet the expectations of many stakeholders in this Inquiry and some sections of the community.	Disagree. See section

FINDING	COMMENT
<p>FINDING 8: Industry peak bodies and regulators can do more to inform the public about Victoria’s high animal welfare standards.</p>	<p>Agree. To improve transparency the Government consider the development of an opt in website where agri-businesses or farms can publicise and highlight their commitment to animal welfare via their on farm practices. This will also utilise consumer choice to drive change and modernisation in farming practices.</p>
<p>FINDING 9: Any alleged illegal acts against animals should be immediately investigated and, if proven, those guilty should be prosecuted.</p>	<p>Agree.</p>
<p>FINDING 10: Many industry quality assurance schemes in the animal agricultural sector deliver higher animal welfare standards than those required by the codes of practice in the <i>Prevention of Cruelty to Animals Act 1986</i>.</p>	<p>Agree.</p>
<p>FINDING 11: Updating the codes of practice for animal welfare under the <i>Prevention of Cruelty to Animals Act 1986</i> would help ensure consumer confidence in the industry.</p>	<p>Agree in part.</p>
<p>FINDING 12: A low incidence of prosecutions for animal welfare offences in the animal agricultural sector does not indicate a lack of enforcement and compliance action by Agriculture Victoria. In some cases, businesses are given the opportunity to improve their practices before prosecution is considered.</p>	<p>Agree in part.</p>

RECOMMENDATIONS	COMMENTS
<p>RECOMMENDATION 1: That in the context of the review of the <i>Prevention of Cruelty to Animals Act 1986</i> the Victorian Government consider the need to codify public interest exemptions in the <i>Surveillance Devices Act 1999</i>.</p>	<p>Agree.</p>

RECOMMENDATIONS	COMMENTS
<p>RECOMMENDATION 2: That the Victorian Government instruct relevant regulatory bodies to collect data that distinguishes between livestock theft committed by animal rights activists and livestock theft committed by non-activists. This data should then inform policy development in this area.</p>	<p>Agree in part. Data is already being collected as evidenced in this report. Disagree with identifying ideological positions of offenders as this is irrelevant.</p>
<p>RECOMMENDATION 3: That Agriculture Victoria conduct an audit of the number of biosecurity management plans in place in animal agriculture business in Victoria. The Victorian Government should follow up this audit with assistance to enable those businesses without one to implement a biosecurity management plan.</p>	<p>Agree</p>
<p>RECOMMENDATION 4: That the Victorian Government review the <i>Livestock Disease Control Act 1994</i> with a view to the creation of an offence for all visitors / trespassers non-compliance with a biosecurity management plan, including a requirement that all visitors / trespassers must comply with plans. In cases of trespass, it should clear that there is no requirement for business owners to have explained the biosecurity management plan to those trespassing.</p>	<p>Disagree. No evidence to suggest that trespassers or visitors have posed an increased threat to biosecurity on farms.</p>
<p>RECOMMENDATION 5: That the proposed new biosecurity offence include an on-the-spot fine, similar to the New South Wales model, for non-compliance with biosecurity management plans.</p>	<p>Disagree for reasons set out in this report contained at paragraph 2 of this report.</p>
<p>RECOMMENDATION 6: That Agriculture Victoria display online information about animal agriculture standard practices and related legislation and regulations.</p>	<p>Agree and support. Increased transparency and community education are an important tool in increasing community awareness of food production on farm.</p>
<p>RECOMMENDATION 7: That Agriculture Victoria and PrimeSafe work with industry to collect examples of benchmark, high-quality animal welfare and biosecurity activities in animal</p>	<p>Agree and support.</p>

RECOMMENDATIONS	COMMENTS
<p>agriculture to better inform the community of agricultural practices.</p>	
<p>RECOMMENDATION 8: As a continuation of Recommendation 6, that Agriculture Victoria make information about the 'compliance continuum' more accessible on its website. This would help the public better understand the approach regulators take regarding breaches of animal welfare regulations and standards.</p>	<p>Agree.</p>
<p>RECOMMENDATION 9: That the Victorian Government express its support to the Commonwealth Government for the creation of an Australian Commission for Animal Welfare, in order to expedite the process for the agreement of the Australian Animal Welfare Standards and Guidelines.</p>	<p>Agree/support in part. The Victorian Government has already embarked upon the process of reviewing POCTA.</p> <p>Creating an Australian Commission for Animal Welfare at a Commonwealth level may be slow. The Victorian Government may like to consider establishing it's own depending on the responsiveness to the issue by the Commonwealth.</p>
<p>RECOMMENDATION 10: That the Victorian Government, in the absence of approved Australian Animal Welfare Standards and Guidelines, incorporate existing animal welfare elements of industry quality assurance schemes into new codes of practice as part of its modernisation of the <i>Prevention of Cruelty to Animals Act 1986</i>.</p>	<p>Agree and expedite.</p>
<p>RECOMMENDATION 11: That the Victorian Government consider its modernisation of the <i>Prevention of Cruelty to Animals Act 1986</i> to be a matter of priority.</p>	<p>Agree</p>
<p>RECOMMENDATION 12: That the Victorian Government conduct an examination of alternative practices used around the world in the treatment of live male chicks in the egg industry and the use of blunt force trauma on goats, pigs, and cows with a view to adopting 'world's best' practice. These standards should be higher than the existing codes of practice in the <i>Prevention of Cruelty to Animals Act 1986</i>.</p>	<p>Agree and expedite.</p>

RECOMMENDATIONS	COMMENTS
<p>RECOMMENDATION 13: That any new codes of practice in the <i>Prevention of Cruelty to Animals Act 1986</i> include appropriate penalties for non-compliance.</p>	<p>Agree</p>
<p>RECOMMENDATION 14: That following consultation with industry, unions and other relevant stakeholders, the Victorian Government consider the implantation of closed-circuit television cameras in Victorian abattoirs with a legislative model similar to the <i>Mandatory Use of Closed Circuit Television in Slaughterhouses (England) Regulations 2018</i>.</p>	<p>Agree</p>
<p>RECOMMENDATION 15: That Agriculture Victoria conduct an audit of its responses to substantiated animal welfare complaints in 2019 to determine if the appropriate action was taken in each case. The results of the audit should be published on Agriculture Victoria's website. The results should be deidentified to ensure no breach of privacy occurs.</p>	<p>Agree</p>

S. Terpstra

Sonja Terpstra MP

Member for the Eastern Metropolitan Region