

The Secretary  
Legislative Council, Economy and Infrastructure Committee  
Parliament House, Spring Street  
EAST MELBOURNE VIC 3002

Monday, 29 July 2019

Dear Sir/Madam,

**RE: Inquiry into the Impact of Animal Rights Activism on Victorian Agriculture**

Herewith are my responses to the Terms of Reference (TOR) previously outlined. The individual points are informed by a period of inquiry as well drawing from personal experience.

***TOR 1. “Consider the type and prevalence of unauthorised activity on Victorian farms and related industries, and the application of existing legislation”***

- (i) Over recent months the media has reported the activity of animal activists with interest and repetition, including that which has been observed interstate. It has also inappropriately co-opted the term ‘livestock theft’ in its reporting. Because of this relatively new attention focussed on animal activism, what has not been made clear is the nature, actual scale and frequency of its occurrence within Victoria.
- (ii) This Inquiry should first consider the defined and pre-existing crime of livestock theft in Victoria, its scale—estimated at between \$1.5-2.07 million per year<sup>1,2,3</sup>—and prevalence, and how its motivation (on-selling livestock for profit when market prices are high) differs markedly from that of animal activist property trespass, with or without removal of animals for veterinary attention. Livestock theft is largely unreported in the mainstream media and, hence, a problem neither recognised nor appreciated by the public.
- (iii) Many farmers whose livelihoods are based on animal agriculture understandably feel anxious and vulnerable to the trespass of any unknown group of people, and perhaps this has only been exacerbated by the conflation of the aforementioned activities reported by the media.
- (iv) An audit of recorded incidents in this State should be conducted for the purpose of properly defining and understanding the scale of the issue and differentiating it from livestock theft.
- (v) Animal activism should be revealed as incomparable: small in scale and far from random; that is, its attention is primarily focussed on factory farms and abattoirs where cases of animal cruelty have been previously reported.

***TOR 2. “Consider 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”***

- (i) In considering workplace health and safety of farm staff, it should be noted that activists consistently express their commitment to peaceful conduct. While being obstructive to some factory farm or abattoir operations there have no violent behaviour reported originating from the activists, which should come as no surprise. Their own manifestos openly reject violence in all its forms and, despite Federal Government, Industry and media commentators dishonestly and irresponsibly labelling them as ‘terrorists,’ they carry no weapons, make any threats nor wear any suicide vests. The only item that they can be said to wear is their ‘heart on their sleeves.’ Accordingly there is no indication that they pose a risk to farm workers. This point can be readily dismissed.
- (ii) With regard to biosecurity, available footage of animal activists on factory farms frequently demonstrates an inherent awareness of these concerns, and their typical donning of Tyvek™-style personal protection coveralls to minimise the risk of cross-infection feature prominently in available footage.
- (iii) It should also be noted that some factory farm staff in similarly captured footage do not appear to be practising any biosecurity controls. Their clothing, in contrast, seems to be unremarkable day wear. It would be informative to this Inquiry to establish what measures and procedures are in place for employees of factory and other farms where biosecurity claims are asserted and compare these to the standards to which animal activists are held when complaints about their occupation are publicly raised. It should ask if and why these expectations are different for employees.
- (iv) It should also ask what is the nature of biosecurity concerns when those raising them provide environments characterised by significant volumes of faecal contamination and where rodents, and any number of known vectors of disease, roam freely on a day-to-day basis in many operations. The routine administration of antibiotics in animal feed could be viewed as evidence of this reality.
- (v) The economy and the contribution made by animal agriculture appears to have been in a state of change over the past few years. Animal farmers and their peak bodies have been correctly pointing out that there has been a lack of awareness of their work in remote and rural areas of the country and the perceptions of it held by city and urban-dwelling people. Often raised as a premise for their pleas to consumers during drought and periods of market-driven financial hardship, the unintended consequence of increasing this ‘connection’ is increased scrutiny of how animals are raised and treated within their significantly shortened life cycles.
- (vi) With an underlying community value that places high priority on animal welfare, it can be seen that as people become more aware of what animals endure to be part of our food system, the more they are critical of it. Reputation of producers locally, and not internationally—with the exception of suppliers to the Live Export trade—is their main risk.

**TOR 3. “Consider animal activists’ compliance with the Livestock Disease Control Act 1994, Livestock Management Act 2010, and the Prevention of Cruelty to Animals Act 1986”**

- (i) These Acts are a curious and disarticulated assembly. The Prevention Of Cruelty to Animals Act (POCTAA) 1986 certainly seeks to address cruelty but excludes animals defined as ‘livestock’ in its scope. Instead it asserts that ‘livestock’ animals are better managed under commercial Codes of Practise rather than prescriptive regulations emerging from law.
- (ii) The definition of ‘livestock’ animals provided in the other Acts marks the origin of a population-wide ethical blind spot treating them as mere commodities to be ‘managed.’ As such, the Community’s awareness of the welfare of animals in agriculture is obscured by laws which allow individual farmers or abattoir operators the latitude to interpret the Codes of Practise inconsistently or to be responsible for cruelty with impunity while still ‘complying with the law.’
- (iii) Under the Livestock Management Act (LMA) 2010 even Inspectors’ powers are not sufficient to investigate cruelty reports in a prompt manner, as property occupiers can simply refuse them entry, necessitating the time-consuming process of applying for a search warrant. This clearly advantages the perpetrator of cruelty, allowing them time to remove incriminating evidence.

**TOR 4. “Consider the civil or criminal liability of individuals and organisations who promote or organise participation in unauthorised animal activism activities”**

- (i) Animal activism is a direct response to indifferent or under-resourced agencies whose responsibility is enforcing animal welfare laws and to which animal cruelty incidents have been reported.
- (ii) Activists commonly complain of having no meaningful response when reporting cruelty. Despite providing material evidence which should lead to prosecutions, they consistently report that ‘nothing is being done or followed up.’ Their subsequent disregard of laws of trespass and theft at considerable personal risk seems to be an act of desperation driven by a moral imperative to alleviate animal suffering that they may have witnessed or of which they are aware. If applied to a scenario that involved a human who was suffering, one would categorise this as ‘duty of care’ or ‘good samaritan.’
- (iii) Aside from the aforementioned existing laws that cover trespass and theft, this Inquiry needs to define what it means by “unauthorised animal activism activities.” Does it seek to limit the right of activists to peacefully protest in public places? What or who determines if an action is deemed “unauthorised?” Is not drawing attention to locations where animal cruelty has been documented in the public interest?

**TOR 5. “Analyse the incidences and responses of other jurisdictions in Australia and internationally”**

- (i) Aside from identifying instances in Australian jurisdictions for the purpose of understanding the size of the issue in Victoria as mentioned in TOR 1(v) above, I have nothing to add to this point.

- (ii) Internationally, however, one only has to look at the excesses of some states in the US that treat animal activists as the worst type of criminal, imposing on them custodial sentences matching that of some of the most heinous, violent crimes. Clearly a disproportionate response that, if adopted here, would cost the community significantly in legal and incarceration costs. To avoid this downward spiral of reflexive sanctions in our country, a wiser action would be to consider the root cause of this behaviour and address *that*.

***TOR 6. "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"***

As a younger man, I participated in what I now regard as an obscene act of animal cruelty. With a group of other men I used my strength to restrain a young male animal while others placed a constrictive ligament around the animal's scrotum. He vocalised his pain and, once released, ran away from the harm that I caused to him.

He could not escape the pain, dragging his pelvis along the ground in a futile attempt to remove the ligament now in situ; the agony it caused would follow him for the next few hours as the affected tissues firstly became ischaemic (denied of blood supply) and then necrotic (dead). Eventually the scrotum and testes would fall off the animal.

Was the animal a dog? A kangaroo? If he was and had the incident been reported by the media, I, along with the others participating, would have been charged by police and excoriated in public, with cries labelling us as psychopaths or sadistic monsters, demanding our incarceration.

Such is the high standard of care expected by the public which it has so clearly voiced most recently in the Victorian Government's own study<sup>4</sup> in which 98% of Victorians (ie. representative of 6.231 million) considered animal welfare as important and 75% (ie. representative of 4.769 million) said that animals needed better protection (**the 98/75 Victorians**).

This animal onto which I inflicted agony was not a dog or a kangaroo: he was a lamb. What followed was the same procedure performed at least two dozen times on other male lambs on a farm at which I had volunteered my labour to assist a friend on a weekend.

This particular cruelty is a procedure known as 'marking,' a 'standard legal practise' performed on millions of defenceless lambs on farms without the mandated provision of any type of pain relief. As indicated in TOR 3(i) above it is exempt from consideration under the POCTAA 1986 based on the defence that it is considered part of a Code of Practice, along with many other standard practises in animal agriculture.

I did not, and still do not, consider the farmer and his team of workers 'monsters' or 'psychopaths;' from what I knew of them, they were all normally caring and hard-working people. We were, however, all there to do a job and while the suffering of the animals as a consequence of this activity was acknowledged in a passing joke, it was never to be part of our consideration.

Recently there has been some publicity concerning the use of a relatively new long-lasting analgesia<sup>5</sup> which is administered prior to inflicting normally painful procedures on animals—such as de-horning and castration. The report made statements regarding the need to address animal welfare concerns and encouraged all graziers to adopt its use.

What it fails to disclose is that the medication cited, while having some effect in reducing post-procedural pain, has no effect on the pain experienced by the animal at the time of the procedure<sup>6</sup>. And yet it is being posited as a ‘holy grail’ for use by farmers to placate public concerns over inhumane treatment.

Further, as long as the use of medical solutions is *discretionary* and are not mandated in law, applicable across all animal farmers, the story is simply disingenuous and an obfuscation intended to placate public disapproval. Meanwhile, Codes of Practice continue to be applied across the majority of animal operations and painful procedures are routinely performed without anaesthetic or analgesia.

And so a great paradox remains: Why are sentient\*, companion animals afforded protection from avoidable suffering under POCTAA 1986 laws, but other sentient animals regarded as a ‘product’ in a food system and equally capable of suffering, have no comparable or realistic protection under the mantle of Industry?

Why is it that species and context can modify our sensitivity and response to suffering? Codes of Practice do not ‘miraculously’ remove the capacity of an animal to suffer. At what point did we, as a society, acquiesce to the cruelty revealed in our food systems and consider it normalised? Or did we just not know about it because crucial information was hidden from us?

No amount of special pleading can excuse a commercial business from inflicting cruel practises on animals to fulfil consumer demand, when that same consumer is demanding cruelty-free products. The consumer is likewise responsible in creating this demand and cannot have it both ways; the producer is in an impossible position of trying to satisfy two conflicting and mutually exclusive expectations.

And how would the detection of this suffering be practically addressed? Do animal farmers not already have an overwhelming task on their hands in their role as business operators and managers? Raising vast numbers of animals on large properties, is it not inevitable that some ill or injured may go unnoticed for various reasons?

In the absence of an intimate level of awareness of suffering animals and in some cases indifference to it, are not activists simply acting as investigative journalists or whistleblowers, motivated by a moral stance which confirms the 98/75 Victorians’ values and expectations? At the very least, they appear to be a contemporary incarnation of the ‘conscientious objectors,’ as their behaviour is completely consistent with their values.

As instances of industrial-scale animal suffering in agriculture continue to be publicly exposed in documentaries such as *Dominion*, those whose lives are invested in it incrementally lose their credibility when some of their voices claim that they “love their animals like their own children”—insofar that this definition of ‘love’ includes sending them to slaughter once their animal attains an appropriate age and weight—while others allow cruelty to occur either through indifference or neglect. The loss of their social licence is a major risk identified by Soupraya<sup>7</sup>.

It seems that the options remaining for the Government are:

1. Conceal more robustly the occurrences of animal cruelty on farms, hitherto exposed by animal activists, by creating greater legal penalties for their incursions and the right to report it in any media, with the aim of establishing a stronger deterrent than that which is in existing laws.
2. Eliminate the ethical inconsistency in our consideration of animals' basic needs by amending POCTAA 1986 to provide protection from cruelty for *all* animals, irrespective of the status they are assigned in our current systems. This amendment should remove the defence afforded by Codes of Practise currently in the Act.
3. Respond to the root cause of activists' behaviour—central to this Inquiry—and create an Animal Protectorate with powers to receive and investigate reports of cruelty of any animal on any farm, abattoir or facility at any location within the State without the access limitation provisions afforded to Inspectors in the LMA, and the power to enforce the amended POCTAA by making binding determinations, be they penalties or restorative orders. This Protectorate's powers should supplant those previously assigned to RSPCA and DELWP.

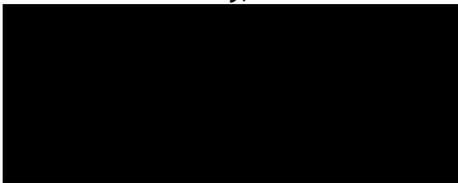
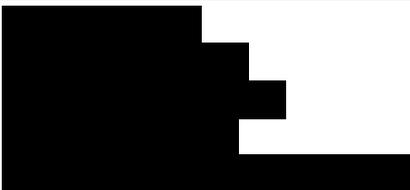
## RECOMMENDATION

This is a landscape where moral considerations collide with established business practises. Stronger regulation and penalties against activists are likely only to embolden their resolve and simultaneously communicate to the public that Government is engaged in a campaign of obscurantism, contrary to its own commitment to the 98/75 Victorians of "A Victoria that fosters the caring and respectful treatment of animals."<sup>8</sup>

Therefore, I believe that options 2. and 3. are appropriate. They are proportionate, realistic, and, unlike the status quo, will have outcomes that are measurable and publicly reportable. They are also entirely consistent with the Community's expectations.

I thank the Committee members for their consideration of my views.

Yours sincerely,

\*For the purpose of this submission I refer to the definition of 'sentience' provided by philosopher and academic, Matthieu Ricard:

*"A being that is called "sentient" is a living organism capable of distinguishing between well-being and pain and between different conditions that are either favourable to its survival or harmful. It is also capable of reacting in an appropriate fashion, meaning that it is capable of avoiding or moving away from anything that might put an end to its existence and also of seeking out whatever might be favourable to its existence."<sup>9</sup>*

## REFERENCES

- <sup>1</sup> Davis, J., *Victorian farmers call for action on rural crime following a spike in stock theft*, ABC News Online 21 May 2018, <https://www.abc.net.au/news/rural/2018-05-21/spike-in-stock-theft-victoria-farmers-want-action-on-rural-crime/9782350> Retrieved 7 July 2019
- <sup>2</sup> Dowler, K., *'Rural crime: Farm theft in Victoria at 10-year high*, Weekly Times Online 12 December 2018, <https://www.weeklytimesnow.com.au/news/victoria/rural-crime-farm-theft-in-victoria-at-10year-high/news-story/d125f2ee575702b97e8b4635720c77f8> Retrieved 7 July 2019
- <sup>3</sup> Bate, J., *Nhill police call on farmers to report livestock thefts after spate of incidents across region*, The Wimmera Mail Times, 5 June 2019, <https://www.mailtimes.com.au/story/6200703/nhill-police-call-on-farmers-to-report-livestock-thefts/> Retrieved 7 July 2019
- <sup>4</sup> State Government of Victoria, *Animal welfare action plan: Improving the welfare of animals in Victoria*, published December 2017, [http://agriculture.vic.gov.au/\\_data/assets/pdf\\_file/0005/377123/Animal-Welfare-Action-Plan-Dec-2017.pdf](http://agriculture.vic.gov.au/_data/assets/pdf_file/0005/377123/Animal-Welfare-Action-Plan-Dec-2017.pdf) p12
- <sup>5</sup> Phelps, M. *Animal welfare: No going back on pain relief*, Queensland Country Life, 17 July 2019, <https://www.queenslandcountrylife.com.au/story/6279303/no-going-back-on-pain-relief/> Retrieved 19 July 2019
- <sup>6</sup> Lehmann, H., *Electroencephalographic and cardiovascular responses to castration in Bos indicus bull calves and the mitigating effects of lidocaine or meloxicam administration*, Murdoch University, 2017 <https://researchrepository.murdoch.edu.au/id/eprint/40738/> Retrieved 20 July 2019
- <sup>7</sup> Soupraya, C., *Australia's shifting mindset on farm animal welfare 2018*, Futureeye, Victoria 2018 <http://www.agriculture.gov.au/SiteCollectionDocuments/animal/farm-animal-welfare.pdf> p4
- <sup>8</sup> State Government of Victoria, *ibid* p6
- <sup>9</sup> Ricard, M., *A Plea for the Animals: The Moral, Philosophical, and Evolutionary Imperative to Treat All Beings with Compassion*, Shambala Publications, Colorado, 2016, p30