



***SUBMISSION TO THE ECONOMY AND INFRASTRUCTURE COMMITTEE INQUIRY  
INTO THE IMPACT OF ANIMAL RIGHTS ACTIVISM ON VICTORIAN AGRICULTURE***

The Animal Law Institute is a not for profit community legal centre that is dedicated to protecting animals and advocating for their interests through the Australian legal system.

2 August 2019

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

Dear Secretary,

## **Inquiry into the impact of animal rights activism on Victorian agriculture**

### **Introduction**

The Animal Law Institute (**ALI**) welcomes the opportunity to make this submission to the Economy and Infrastructure Committee (**Committee**) in response to its inquiry into the impact of animal rights activism on Victorian agriculture.

ALI is a registered charity and a not for profit community legal centre that is dedicated to protecting animals and advocating for their interests through the Australian legal system. ALI is a member of peak bodies, the Victorian Federation of Community Legal Centres and the National Association of Community Legal Centres.

### **Background**

Evidence gathered by concerned individuals has in recent years revealed and confirmed what animal rights advocates have long suspected: that much of what goes on within intensive farming facilities and abattoirs is unacceptable. There are two important points observed in this context. Firstly, an increasing number of Australians, particularly younger demographics, find any level of animal cruelty unacceptable. Secondly, without exception, revelations of animal cruelty are uncovered when individuals obtain information from places which go to great lengths to keep their activities hidden.

This growing shift in the general public's attitude to animal cruelty has been illustrated most strikingly by the response to two important recent revelations, both of which resulted from illegally obtained footage. In 2015, the public was shocked by the live baiting scandal within the greyhound racing industry, after footage emerged depicting trained dogs maiming and killing prey animals such as piglets, possums and rabbits. The following year, Australians were again confronted by horrifying footage of sheep suffering from extreme heat stress aboard a live export ship, the Awassi Express, on route to the Middle East. The revelation that sheep are effectively cooked alive during these voyages prompted a wave of public

revulsion and immediate responses from the Federal Government in an attempt to improve conditions.

Regarding trespass and illegal surveillance, we believe one can never condone or approve of illegal activity. Individuals who trespass on farms to obtain footage revealing animal cruelty (or not) commit various offences. Indeed, such offences were summarised by the Minister for Agriculture on 1 May 2019, when the present inquiry was established by the Legislative Council. The corollary to this is that, arguably, the existing law is completely adequate to deal with trespass on farms or other facilities where animals are kept. There is little justification that agricultural farms require additional protection to that already granted under the existing legal framework. Moreover, the existing legal framework already contains offences which address the very behaviour that this Committee is considering.

The wider and more important issue, however, is the public perception that the cruelty, which is clearly rife in such places, is not being dealt with properly. We consider that this is most likely why people feel motivated to (wrongly) invade properties and gather evidence of cruelty. This is a reason - not a justification. But given this public perception, which we believe to be genuine and growing, we strongly recommend that this Committee considers what steps can be taken to increase public confidence that farm animals and animals at abattoirs are being treated humanely and according to the law. There is a sustainable argument, we suggest, that many businesses which confine animals for commercial gain do not want their activities scrutinised because they rightly gauge that the average member of the public would find them unacceptable.

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. We recommend that the Committee, as part of this inquiry, considers the real evidence of animal cruelty, particularly in intensive animal facilities and abattoirs, and gives consideration to legislative change to improve on-site conditions. For example, the New South Wales Government introduced closed-circuit cameras in abattoirs in 2012, following revelations of extreme cruelty at Hawkesbury Valley Meat Processors at Wilberforce, in Sydney's west. We believe this model should be considered by the Victorian Government.

### **Summary and Recommendations**

ALI supports measures providing legal protection for individuals and businesses, including appropriate measures to respond to trespass on private property. ALI considers that the current regulatory criminal law framework adequately does this.

ALI also supports animal welfare issues being discussed openly in public forums. While individuals should not be encouraged or permitted to unlawfully enter onto private property, and we in no way condone illegal activity, we do not believe that new or increased penalties will provide a solution to this issue. Instead, we propose that law enforcement agencies are provided with sufficient resources to effectively police animal welfare laws, thereby removing the incentive for private citizens to do so. We also stress the importance of these enforcement agencies being independent, and being seen to be independent by the public (as opposed to having an obvious conflict of interest as Agriculture Victoria does today).

It is critical that adequate mechanisms are put in place to respond proactively where animal cruelty does arise. Any changes that prevent this occurring, or fail to address this fundamental concern, should not be advanced by the Committee.

Based on the above, ALI makes the following recommendations for the Committee's consideration:

1. The Victorian Government should review existing funding levels for law enforcement and regulatory enforcement agencies that undertake animal welfare enforcement to ensure that these agencies have sufficient funding and resources to secure positive animal welfare outcomes. Increased funding would also likely increase public confidence in the ability of regulators to protect animal welfare.
2. The Committee should consider how to increase public faith in the prosecution process. This would best be addressed by ensuring the independence of regulatory and enforcement agencies by introducing an Independent Office of Animal Welfare with enforcement powers and introducing CCTV cameras as discussed below.
3. The Committee should recognise the significant penalties available under existing legislation for the prosecution of unlawful entry onto private property, unauthorised surveillance and breaches of biosecurity legislation.

### **Detailed Reasoning**

#### **1. Restoring public faith in the ability of regulatory agencies to protect animals from cruelty**

It is not appropriate, for individuals to be attempting to ensure compliance by industry with animal welfare standards, especially where allowing this would be to condone or allow unlawful entry onto private property. ALI in no way condones illegal activity. However, we suggest that the increased incidence of covert surveillance is a direct reflection of the fact that public faith in the ability of regulatory agencies to protect animals from cruelty is low.

The focus should therefore be to ensure that enforcement agencies are properly funded and sufficiently independent to undertake proactive and independent investigations and enforcement operations to prevent animal cruelty offences occurring, and to appropriately punish illegality by agribusinesses.

Agriculture Victoria and RSPCA (Victoria) undertake a number of critical regulatory functions that ensure the protection of vulnerable animals. Agriculture Victoria and RSPCA (Victoria) are jointly responsible for the investigation of animal cruelty offences, care and treatment of animals seized during investigations, and often the prosecution of these offences. In respect of RSPCA (Victoria), it is wholly unacceptable that an agency with these kinds of responsibilities is expected to rely so heavily on charitable donations to fund its regulatory activities. We strongly believe this must be improved.

The Committee should consider the value that the RSPCA and other law enforcement agencies provide and recommend that these important regulatory objectives be properly supported. This includes additional funding, as well as ensuring that law enforcement agencies have staff that are properly trained, and critically, are independent from the industry that they are regulating.

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. We would support the establishment of an Independent Office of Animal Welfare in Victoria with enforcement power to remove this conflict of interest. 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.

We also recommend that the Committee, as part of this inquiry, considers the real evidence of animal cruelty, particularly in intensive animal facilities and abattoirs, and gives consideration to legislative change to improve on-site conditions. For example, the New South Wales Government introduced closed-circuit cameras in abattoirs in 2012, following revelations of extreme cruelty at Hawkesbury Valley Meat Processors at Wilberforce, in Sydney's west. We believe this model should be considered by the Victorian Government.

#### **Recommendation 1**

A. The Victorian Government review existing funding levels for independent law enforcement and regulatory enforcement agencies that undertake animal welfare enforcement to ensure that these agencies have sufficient funding and resources to secure

positive animal welfare outcomes. This should include identifying opportunities to increase funding levels for RSPCA (Victoria).

B. The Victorian Government establish an Independent Office of Animal Welfare, properly funded, with prosecutorial power and responsibility in respect of agricultural animals.

C. The Victorian Government introduce closed-circuit cameras in abattoirs.

**3. While trespass laws must apply to all acts of unlawful entry, a differentiated set of laws for animal rights activists would introduce a dangerous legal precedent**

Under current legislation, a range of controls are in place to punish those who unlawfully enter private property, including:

- trespass laws, including the *Summary Offences Act 1966* (section 9), with penalties of up to 6 months imprisonment;
- unlawful entry that also results in property damage, such as section 197 of the *Crimes Act 1958*, which includes penalties of up to 10 years for destroying or damaging property;
- offences dealing with threats to commit serious injury to persons or property, including section 21 of the *Crimes Act 1958*, with penalties of up to 5 years imprisonment; and
- restrictions on the use or installation of audio or visual surveillance devices under the *Surveillance Devices Act 1999*, with penalties of up to 2 years imprisonment.

Specific controls are already in place to respond to the impacts of unlawful entry onto private land. ALI submits to the Committee that these controls are sufficient to deal with the specific issue before it – dealing with the risks associated with unlawful entry onto agricultural land.

Further, ALI remains concerned that introducing criminal laws that target a specific group of people, rather than being of general application, sets a precedent that is not beneficial to wider society. While ALI does not in any way condone illegal activity, we have concerns that the proposed legislation would reflect a legislative intention of prioritising agribusiness over animal welfare. The proposed move to impose significant penalties on activists would cause the criminal law to differentiate based on the person conducting the unlawful activity rather than impact of the misconduct.

We believe there is insufficient evidence that specific, additional laws dealing with unlawful entry onto agricultural land is needed to supplement the current law. We also question the utility of introducing new offences which cover the same behaviour, in circumstances where basic elements of criminal law mean that an individual could not be convicted of multiple offences, in circumstances where they cover the same conduct.

Introducing specific laws to target animal activists indicates that not everyone is equal before the law and that vocal minorities (being agribusiness) can secure additional protections.

### **Recommendation 3**

The Committee should recognise the significant penalties available under existing legislation for the prosecution of unlawful entry onto private property, unauthorised surveillance and breaches of biosecurity legislation.

### **3. Technology provides an opportunity to tackle biosecurity and animal welfare issues without compromising farmers' privacy**

The Inquiry Terms of Reference include considerations to improve farmer's privacy while also applying the critical biosecurity and animal welfare lens to the issue.

The increasing development and sale of more humanely produced food and products (such as free-range eggs) reflects a changing trend in consumer behaviour. ALI believes that public confidence in the Victorian Government's ability to regulate and enforce animal cruelty legislation would be increased via a public, online database to ensure consumers have access to information on businesses that fail to abide by biosecurity requirements and animal welfare laws. This process is already in place for different industries across Australia and applies to businesses that prepare and sell food to the public. It is wholly appropriate that the same standard applies to businesses producing food.

Improving transparency in the industry will lift standards by linking profitability with biosecurity and animal welfare compliance, allowing customers to support businesses that are following best practice.

### **Recommendation 3**



All regulators and law enforcement agencies should maintain a publicly available list of individuals and businesses that have breached biosecurity and animal welfare laws, including where appropriate the provision of video and still photo content captured by official inspectors.

We thank you for considering our submission and welcome any questions regarding any of the above points. Please do not hesitate to contact The Animal Law Institute via email at

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