Ref: CSEC19000713R

Mr Patrick O'Brien
Secretary
Legislative Council, Economy and Infrastructure Committee
Inquiry into the Impact of Animal Rights Activism on Victorian Agriculture
Parliament House, Spring Street
EAST MELBOURNE VIC 3002

Dear Mr O’Brien

INQUIRY INTO THE IMPACT OF ANIMAL RIGHTS ACTIVISM ON VICTORIAN AGRICULTURE

Thank you for your letter inviting submissions to the Inquiry into the impact of animal rights activism on Victorian Agriculture.

Agriculture Victoria within Department of Jobs, Precincts and Regions has prepared information that addresses the issues identified in the terms of reference. The submission includes information about:

- the contribution of Victoria’s livestock-based industries and the role and responsibilities of Agriculture Victoria in supporting them
- Victoria’s animal welfare compliance and enforcement framework
- an analysis of the risks that unauthorised animal activism poses for Victoria’s farms and related industries and farming communities
- legislation relating to unauthorised activist activities in Victoria
- responses of other Australian and international jurisdictions to incidences of unauthorised activist activities.

The submission has been approved by the Minister for Agriculture as required by the Department of Premier and Cabinet Guidelines for the Victorian Government Submissions and Responses to Inquiries.

The department will work with the Minister for Agriculture to consider the recommendations of the committee, including any recommendations relating to regulatory practice or legislative change.

If you require further information, please contact Sally Fensing, Executive Director, Agriculture Regulatory Policy of the Department of Jobs, Precincts and Regions on telephone (03) 8392 6897.

Yours sincerely

Simon Phemister
Secretary
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EXECUTIVE SUMMARY

This submission is provided to the Inquiry into the Impacts of Animal Rights Activism on Victorian Agriculture (the Inquiry). The submission sets out:

- The roles and responsibilities of Agriculture Victoria in supporting the state’s agricultural sector and businesses, and in protecting biosecurity and regulating animal welfare
- Victoria’s animal welfare compliance and enforcement framework
- The contribution of Victoria’s livestock-based industries to the state and the risks that animal activist activities pose for Victoria’s farms and related industries and farming communities
- Legislation relating to unauthorised activist activities in Victoria
- Responses of other Australian and international jurisdictions to incidences of unauthorised activist activities.

Terms of Reference

On 1 May 2019, the Legislative Council agreed to the following motion:

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;
   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.

Scope of Agriculture Victoria submission

While Agriculture Victoria regulates the welfare of domestic animals as well as commercial livestock, this submission focuses on the work of Agriculture Victoria as it relates to the livestock and the agriculture industry, as per the Inquiry terms of reference.
1. OUR ROLE

The Department of Jobs, Precincts and Regions (DJPR) works to achieve a productive, competitive and sustainable Victorian economy.

Agriculture Victoria within DJPR contributes to this work by supporting Victoria’s food and fibre sector to become more globally competitive, innovative and resilient. Among other things, and of particular relevance to the Inquiry, Agriculture Victoria has compliance and enforcement responsibilities associated with biosecurity (plant and animal), animal welfare, chemical use, invasive species and food safety.

Animal welfare

Agriculture Victoria administers animal welfare legislation, codes of practice and standards and works closely with other compliance and enforcement agencies to ensure that allegations of animal cruelty are investigated appropriately.

Animal welfare-related policies are developed on a science-based and evidence-based platform, with analysis and review of available research including national and international standards. Agriculture Victoria engages with a wide range of stakeholders in providing policy advice to government.

Victoria’s main animal welfare legislation is the Prevention of Cruelty to Animals Act 1986 (POCTA Act). The purpose of the Act is to—

(a) prevent cruelty to animals; and
(b) to encourage the considerate treatment of animals; and
(c) to improve the level of community awareness about the prevention of cruelty to animals.

Agriculture Victoria is looking at ways to reform and modernise Victoria’s animal welfare legislation. Consultations on the proposals for a new Act are intended to occur later in 2019. The Prevention of Cruelty to Animals Regulations 2008 have been extended in consideration of this work.

Agriculture Victoria will review the Prevention of Cruelty to Animals Regulations and take into account the feedback and stakeholder views. New regulations will be made at the end of 2019.

Table 1 lists livestock-related animal welfare legislation and regulation that Agriculture Victoria administers. There are also national standards and guidelines for livestock, such as the Land Transport Standards.

<table>
<thead>
<tr>
<th>Table 1: Animal welfare-related legislation and regulations in Victoria</th>
</tr>
</thead>
<tbody>
<tr>
<td>Impounding of Livestock Act 1994</td>
</tr>
<tr>
<td>Impounding of Livestock Regulations 2018</td>
</tr>
<tr>
<td>Livestock Management Act 2010</td>
</tr>
<tr>
<td>Livestock Management Regulations 2011</td>
</tr>
<tr>
<td>Prevention of Cruelty to Animals Act 1986</td>
</tr>
<tr>
<td>Prevention of Cruelty to Animals Regulations 2008</td>
</tr>
<tr>
<td>Prevention of Cruelty to Animals (Domestic Fowl) Regulations 2018</td>
</tr>
</tbody>
</table>

Biosecurity

Biosecurity is the implementation of measures to protect humans, crops and livestock from the impacts of disease, pests and weeds. Exotic pests and diseases can pose serious threats to local, state and national industries and markets and compromise Victoria’s and Australia’s reputation as a provider of safe, clean, high quality primary produce.

Biosecurity emergencies can result in farmers needing to depopulate stock, with significant animal health and financial impacts for individual farmers and local communities.

Victoria operates within a national biosecurity system:

- The Commonwealth Government is responsible for implementing measures to reduce biosecurity risks pre-border and at the national border.
- Agriculture Victoria is the lead agency responsible for regulating biosecurity within the state’s borders.
Victoria’s main legislation relating to biosecurity and livestock is the *Livestock Disease Control Act 1994* and the *Livestock Management Act 2010*. Table 2 lists Victorian legislation relating to animal biosecurity.

**Table 2: Biosecurity legislation relating to animals in Victoria**

<table>
<thead>
<tr>
<th>Legislation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Livestock Disease Control Act 1994</td>
</tr>
<tr>
<td>Livestock Disease Control Regulations 2017</td>
</tr>
<tr>
<td>Livestock Management Act 2010</td>
</tr>
<tr>
<td>Livestock Management Regulations 2011</td>
</tr>
<tr>
<td>Catchment and Land Protection Act 1994</td>
</tr>
<tr>
<td>Fisheries Act 1996</td>
</tr>
<tr>
<td>Biological Control Act 1986</td>
</tr>
<tr>
<td>Impounding of Livestock Act 1994</td>
</tr>
<tr>
<td>Impounding of Livestock Regulations 2018</td>
</tr>
<tr>
<td>Land Act 1958</td>
</tr>
<tr>
<td>Wildlife Act 1975</td>
</tr>
<tr>
<td>Marine Act 1988</td>
</tr>
<tr>
<td>Stock (Seller Liability and Declarations) Act 1993</td>
</tr>
</tbody>
</table>

2. **ANIMAL WELFARE LAWS IN VICTORIA – COMPLIANCE AND ENFORCEMENT**

The general provisions of the POCTA Act and other animal welfare-related legislation are enforced by Agriculture Victoria, RSPCA Victoria, local governments, Victoria Police and the Department of Environment, Land, Water and Planning (DELWP). The Game Management Authority, Greyhound Racing Victoria and Racing Victoria also have compliance and enforcement roles.

**Reporting an animal welfare concern**

Individuals and groups with a concern about the welfare of livestock or other animals can:

- Contact Animal Health Officers at Agriculture Victoria’s regional offices across the state
- Call the DJPR customer service centre on 136 186
- Email aw.complaint@ecodev.vic.gov.au.
- Contact RSPCA Victoria, local governments or Victoria Police.

People alerting to a possible animal welfare issue can remain anonymous.

**Responding to potential animal welfare issues**

The authority of Agriculture Victoria to intervene in animal welfare issues is primarily granted under the POCTA Act (which establishes the key threshold concept of ‘unnecessary pain and suffering’). The Act sets out the powers that Agriculture Victoria and its animal welfare compliance partners have in responding to animal welfare matters and the circumstances under which an enforcement action can be taken.

In practice, Agriculture Victoria’s primary animal welfare role involves commercial livestock (10 livestock or more, or 50 poultry or more) and commercial breeders of cats and dogs. In exercising regulatory functions, Agriculture Victoria is committed to the principles of being helpful, impartial, predictable, respectful, proportionate, transparent and reasonable.

Agriculture Victoria adopts a risk-based approach to monitoring and enforcing animal welfare compliance. This involves:

- Informing people of their responsibilities to maintain the welfare of animals in their care and educating them about how to meet their obligations.
- Monitoring compliance through inspections and audits
- Investigating animal welfare complaints and prosecuting where appropriate.

Notifications from industry workers and members of the public about potential animal welfare contraventions continue to be a source of intelligence for compliance activity. Inspectors authorised under the POCTA Act take steps to determine whether an animal welfare offence has occurred.

Agriculture Victoria can:
- Issue formal notices to comply with animal welfare requirements
- Seize animals
- Collect further evidence and information from relevant people
- Commence prosecution.


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.


Table 3: Animal welfare investigations conducted by Agriculture Victoria, 2018

<table>
<thead>
<tr>
<th>Species</th>
<th>Number of investigations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alpaca</td>
<td>13</td>
</tr>
<tr>
<td>Cattle</td>
<td>647</td>
</tr>
<tr>
<td>Goat</td>
<td>45</td>
</tr>
<tr>
<td>Horse</td>
<td>19</td>
</tr>
<tr>
<td>Pig</td>
<td>21</td>
</tr>
<tr>
<td>Poultry</td>
<td>56</td>
</tr>
<tr>
<td>Sheep</td>
<td>535</td>
</tr>
<tr>
<td>Mixed</td>
<td>128</td>
</tr>
<tr>
<td>Other</td>
<td>121</td>
</tr>
<tr>
<td><strong>TOTAL 2018</strong></td>
<td><strong>1,485</strong></td>
</tr>
</tbody>
</table>

Key issues for consideration
- Are current mechanisms for community members to report suspected animal cruelty offences adequate?

3. UNAUTHOURISED 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.

Key issues for consideration

- What are the underlying drivers of recent incidents by animal activists and how can they be addressed?
- How is the community perception of animal activism evolving?

4. THE IMPORTANCE OF AGRICULTURE AND RISKS OF ANIMAL ACTIVIST ACTIVITIES

Agriculture and other animal industries in Victoria

Victoria’s farms and the agriculture industry make a significant contribution to the state and nation both economically and socially.

- Despite occupying just 3 per cent of Australia’s total land mass, Victoria is the nation’s biggest agriculture producer. In 2017-18, Victoria produced 25 per cent ($15 billion) of Australia’s total gross value of agricultural production ($59 billion).²
- Victoria’s agriculture industry is important to job growth and economic development in Victoria’s rural and regional areas and is central to sectors such as food manufacturing and processing, distribution and retail. Victoria’s agriculture industry also contributes significantly to the nation’s exports.
- There are almost 21,000 farms in Victoria, and they make up 25 per cent of all farms in Australia.³

Victoria’s livestock-based businesses are a major part of the agriculture sector:

- More than 70 per cent of Victoria’s farms are livestock-based and animal industries contribute over 60 per cent of Victoria’s agricultural production.⁴
- Victoria’s livestock industries are major employers in rural and regional Victoria, employing around 52,000 people (on farms and in processing businesses).⁵

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⁴ Ibid.

They produce more than 60 per cent of Australia’s milk, 44 per cent of Australia’s lamb meat and 18 per cent of Australia’s beef meat.\(^6\)

Milk is the highest annual value commodity produced by Victorian farmers ($2.6 billion), followed by cattle and calves ($2 billion) and sheep and lambs ($1.8 billion). These commodities contribute a combined 43 per cent of the total value of Victoria’s agricultural production.\(^7\)

In Victoria, there are also 21 licensed domestic abattoirs supervised by the statutory authority PrimeSafe and a further 18 licensed export abattoirs supervised by the Commonwealth Department of Agriculture and Water Resources. Four abattoirs are located in Melbourne with the rest located in regional centres.\(^8\)

Victoria’s livestock farms are also important for exports and to Australia’s reputation as a producer of high-quality livestock and livestock products:

- Victoria’s animal-based industries contribute 60 per cent of Victoria’s total agricultural exports.
- Victorian farms produce most of Australia’s dairy exports (80 per cent).
- They also produce more than half of the nation’s animal fibre exports (53 per cent).
- Victorian livestock businesses produce almost half of the nation’s skins and hide exports (47 per cent).\(^9\)

**Risks of unauthorised activities on farms and related businesses**

The unauthorised entry of animal activists onto farms and related business poses a number of risks – including biosecurity, animal welfare, public health, personnel health and safety and wellbeing, and business risks.

<table>
<thead>
<tr>
<th>Category</th>
<th>Risk</th>
<th>Description</th>
</tr>
</thead>
</table>
| Biosecurity | Introduction and/or spread of disease, weeds or pest animals | Unauthorised entry of people may lead to the introduction and/or spread of an endemic or exotic emergency animal disease to and within a livestock enterprise, or the spread of weeds or release into the environment of pest animals from properties licensed to keep them. Animal diseases can be inadvertently (or intentionally) spread by people moving from farm-to-farm or within a farm either by the persons being infected or temporarily harbouring the disease in their nasal passages, or by mechanical transmission on fomites such as contaminated clothing and footwear, vehicles, or equipment when moving from an infected farm to another farm. Disease spread can occur on extensive grazing farm enterprises or on intensive animal industries such as a dairy farm, beef feedlot, indoor or free-range piggery or poultry farm. Examples of possible disease spread include:  
- Poultry enterprises (egg or meat) – Endemic diseases that may easily spread from an infected farm or shed to another shed or farm include infectious laryngotracheitis (ILT), and exotic viral diseases such as avian influenza (AI) and virulent Newcastle disease (NCD).  
- Pig enterprises – the introduction of human influenza virus (Influenza A) from an infected human to pigs or transmission of the exotic African swine fever (ASF) and foot and mouth disease (FMD).  
- Grazing livestock enterprises – Introduction and spread of exotic diseases such as the highly contagious FMD. People unfamiliar with the animal health status of a farm or biosecurity practices implemented on that farm may cause mixing of livestock with |

\(^6\) Ibid  
\(^7\) Ibid.  
\(^8\) Ibid.  
<table>
<thead>
<tr>
<th>Category</th>
<th>Risk</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Animal welfare</td>
<td>Changes in routine</td>
<td>The unauthorised entry of persons onto a livestock enterprise can cause stress to livestock. Changes to husbandry routines can also be a source of stress.</td>
</tr>
<tr>
<td></td>
<td>Opening gates / releasing animals</td>
<td>Leaving gates open or intentionally opening gates and mixing or releasing livestock can lead to animal welfare issues including accidental deaths.</td>
</tr>
<tr>
<td></td>
<td>Transport of animals</td>
<td>The unconventional transport of stolen animals such as bobby calves, lambs, poultry (for example, in the boot of a car) is illegal and likely to cause discomfort and stress to the animals.</td>
</tr>
<tr>
<td>Public health</td>
<td>Exposure to zoonotic diseases</td>
<td>People entering livestock properties and handling animals may be exposed to zoonotic diseases such as Q fever or expose the livestock to zoonotic diseases they may be carrying.</td>
</tr>
<tr>
<td>Human health, safety and well-being</td>
<td>Injury, stress, accidents etc.</td>
<td>Unauthorised entry (trespass) or the threat of entry by animal activists can cause farming families and farm workers to experience fear and intimidation. Farms are often also the site of a family’s home, as well as workplace. Privacy breaches such as online disclosure of the location of family farms can contribute to stress and feelings of fear. Farmers may be subject to direct verbal, physical or online threats. Unauthorised access, filming or other activities could raise tensions between animal activists and farmers or other industry members and increase the likelihood of altercations, assaults or other criminal behaviours. Activists may injure themselves, such as by falling through roof spaces or injuring themselves on equipment, and they may risk the safety of responders assisting them.</td>
</tr>
<tr>
<td>Stock theft</td>
<td>Traceability standards</td>
<td>Unauthorised possession of livestock can be in breach of livestock transport standards and livestock traceability legislation including National Livestock Identification System (NLIS) transfer, National Vendor Declaration (NVD) and Property Identification Code (PIC) requirements.</td>
</tr>
<tr>
<td>Business disruption</td>
<td>Business disruption</td>
<td>Animal activist activities can have the potential to disrupt abattoir and sale yard operations and cause animal welfare issues due to delays in transport or slaughter. Activities may also impact the viability of businesses undertaking lawful activities along the value chain.</td>
</tr>
</tbody>
</table>

Key issues for consideration
- Are the risks of unauthorised animal activist activities understood by the livestock industry, animal activists, and the broader community?

5. LEGISLATION APPLICABLE TO ANIMAL ACTIVIST ACTIVITY

There are various Victorian laws that may be applicable to the activities of animal activists. This includes legislation that contains offences covering actions such as theft, violence, damage to property and property access, failure to manage biosecurity risks, inappropriate movement of animals, animal cruelty and breach of privacy.
<table>
<thead>
<tr>
<th>Legislation</th>
<th>Relevant offences</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Animal welfare</strong></td>
<td>The POCTA Act enables inspectors to protect an animal in a situation in which an inspector authorised under the Act believes an offence is being committed or is about to be committed, by issuing a notice to the person in charge of the animal to ensure the offence is not committed or ceases to be committed. Relevant offences include:</td>
</tr>
<tr>
<td>Prevention of Cruelty to Animals Act 1986</td>
<td>• 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.</td>
</tr>
<tr>
<td>The POCTA Act is Victoria’s key animal welfare legislation. The purpose of the Act, its Regulations and Codes of Practices are to prevent cruelty to animals, encourage considerate treatment of animals, and improve community awareness about preventing cruelty to animals.</td>
<td>• 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 (250 penalty units) or 2 years’ imprisonment. Activities of animal activists could include conduct that causes or is likely to cause unreasonable pain or suffering which falls within these offences.</td>
</tr>
<tr>
<td>The Act also sets out requirements for the use of animals in scientific research and rodeos and the attached Codes of Practice set out mandatory and non-mandatory requirements for a wide range of specific animals and activities, ranging from keeping domestic pets to hunting and fishing and using animals in exhibitions and films.</td>
<td>There are also offences for impersonating or obstructing a POCTA-authorised officer.</td>
</tr>
<tr>
<td>The general provisions of the POCTA Act are enforced by POCTA-authorised officers from organisations including Agriculture Victoria; RSPCA Victoria; local governments; Victoria Police; the Department of Environment, Land, Water and Planning; and the Game Management Authority. DJPR administers the Act and Regulations.</td>
<td></td>
</tr>
<tr>
<td><strong>Biosecurity</strong></td>
<td>The legislation sets out various offences for activities when a quarantine risk has been identified. Offences include:</td>
</tr>
<tr>
<td>Livestock Disease Control Act 1994 and Livestock Disease Control Regulations 2017</td>
<td>• 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 (60 penalty units¹⁰).</td>
</tr>
<tr>
<td>The legislation sets out requirements to protect Victorian livestock from disease and to maintain and enhance domestic and international market access.</td>
<td>• 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.</td>
</tr>
<tr>
<td>The legislation also aims to protect public health by preventing diseases that are transmissible to humans, provides for compensation for certain livestock losses due to disease, and facilitates the operation of livestock traceability systems to maintain market access the control of disease and residue control. DJPR administers the Livestock Disease Control Act and Regulations.</td>
<td></td>
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</tbody>
</table>

¹⁰ Penalty unit in Victoria is set at $165.22 as at 1 July 2019.
<table>
<thead>
<tr>
<th>Legislation</th>
<th>Relevant offences</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>* Section 24 and section 25 of the Act create offences for entering or exiting</td>
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<tr>
<td></td>
<td>declared areas or moving livestock, products and feed into or out of declared</td>
</tr>
<tr>
<td></td>
<td>areas without permission. A person committing an offence under these sections may</td>
</tr>
<tr>
<td></td>
<td>be liable for a maximum penalty of $59,480 (360 penalty units) and/or 36 months'</td>
</tr>
<tr>
<td></td>
<td>imprisonment.</td>
</tr>
<tr>
<td></td>
<td>There are a number of other offences which may be triggered when a restricted area</td>
</tr>
<tr>
<td></td>
<td>or control area has been declared by the Minister for Agriculture in circumstances</td>
</tr>
<tr>
<td></td>
<td>where an exotic disease needs to be prevented, controlled or eradicated.</td>
</tr>
<tr>
<td></td>
<td>If an activist enters private land that is a declared area or transports livestock</td>
</tr>
<tr>
<td></td>
<td>into or out of a declared area (or an area that is restricted or controlled through</td>
</tr>
<tr>
<td></td>
<td>declarations under this Act), they may be committing an offence.</td>
</tr>
</tbody>
</table>

**Livestock Management Act 2010**

The *Livestock Management Act 2010* (Vic) provides a framework to regulate specific standards relating to livestock management.

The Livestock Management Act affects anyone owning, managing or working with livestock in any capacity as they relate to a specific and prescribed standard, which are presently the pig welfare standards and the land transport standards.

DJPR administers the Act and Regulations.

The Livestock Management Act aims to legislate standards relating to the management of livestock.

* Section 50 of the Livestock Management Act creates an offence for a person engaging in a regulated livestock management activity to which a prescribed livestock management standard relates to a person who acts 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) for an individual.

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

**Meat Industry Act 1993**

PrimeSafe administers legislation such as the *Meat Industry Act 1983* (Vic) and other legislation relevant to handling live animals at abattoirs, poultry processing facilities and pet meat processing facilities. Licensed facilities are required to comply with relevant animal welfare standards. *(See Appendix 1 for PrimeSafe’s submission to the Inquiry.)*

NJPR administers the Act and Regulations.

Licensed facilities are subject to compliance requirements for animal welfare at abattoirs, poultry processing facilities and pet meat processing facilities. Compliance with these requirements is monitored through announced and unannounced audits and inspections. Failure to comply with these standards will leave a facility subject to enforcement action in accordance with PrimeSafe’s Compliance and Enforcement Policy.

The Meat Industry Act does not provide for any risks or disruptions potentially caused by animal activism activities.

**Trespass**

**Summary Offences Act 1966**

The *Summary Offences Act 1986* (Vic) sets out offences which can be heard and decided by a magistrate. These offences are generally less serious than indictable offences and the penalties that can be imposed are not as great.

The Summary Offences Act sets out offences such as trespass, refusing to leave a private place, damaging property, entry which is likely to breach the peace, obstruction of a footpath or road and besetting (harassing). There are a wide range of potential offences and penalties that may apply to animal activist activities depending on the nature of the conduct.
<table>
<thead>
<tr>
<th>Legislation</th>
<th>Relevant offences</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Department of Justice and Community Safety (DOJCS) administers the Act.</td>
<td>Offences include:</td>
</tr>
<tr>
<td></td>
<td>• 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. Comparisons of trespass laws in different jurisdictions is included at Appendix 2.</td>
</tr>
<tr>
<td></td>
<td>• Section 9(1)(c) of the Act creates an offence where a person wilfully damages property of value less than $5000.</td>
</tr>
<tr>
<td></td>
<td>• 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.</td>
</tr>
<tr>
<td></td>
<td>A person committing an offence under any of the above sections may be liable for a maximum penalty of $4131 (25 penalty units) and/or 6 months’ imprisonment.</td>
</tr>
</tbody>
</table>

| Crimes Act 1958 | The Crimes Act provides for offences relating to property damage, burglary, aggravated burglary or obtaining property by deception. There are a wide range of potential offences and penalties that may apply to animal activist activities depending on the nature of the conduct. |
| The Crimes Act 1958 (Vic) sets out offences including serious indictable offences which can attract large penalties and jail time. DOJCS administers the Act. | Offences include: |
| | • Section 197(1) of the Act creates an offence where a person intentionally destroys property belonging to someone else without lawful excuse. A person committing an offence under this section may be liable for a maximum penalty of $198,264 (1200 penalty units) or 10 years’ imprisonment. |
| | • 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. A person committing an offence under this section may be liable for a maximum penalty of $198,264 (1200 penalty units) or 10 years’ imprisonment. |

<p>| Surveillance / filming | The Surveillance Act includes offences for the installation, use or maintenance of surveillance devices without permission of each party to the activity where a private activity is being undertaken. |
| Surveillance Devices Act 1999 | • 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. A person committing an offence under these sections may be liable for a maximum penalty of $39,653 (240 penalty units) and/or 2 years’ imprisonment. |
| The Surveillance Devices Act 1999 (Vic) regulates the installation, use, maintenance and retrieval of surveillance devices in Victoria. DOJCS administers the Act. | A ‘surveillance device’ means a data surveillance device, a listening device, an optical surveillance device or a tracking device and includes instruments, apparatus and equipment. A private activity does not include an activity |</p>
<table>
<thead>
<tr>
<th>Legislation</th>
<th>Relevant offences</th>
</tr>
</thead>
<tbody>
<tr>
<td>Civil Aviation Act</td>
<td>The Civil Aviation Act requires that recreational drones can only be flown in daylight hours and the drone must remain in visual line-of-sight by the operator’s eyes. The use of flying drones over private land is not clearly regulated.</td>
</tr>
<tr>
<td>Privacy</td>
<td></td>
</tr>
<tr>
<td>Privacy Act 1988</td>
<td>Small businesses with a turnover of less than $3 million are exempt from the APPs unless prescribed. Aussie Farms Incorporated was prescribed on 6 April 2019 and is required to collect, use and disclose personal information in the manner required by the APPs. Prescribing Aussie Farms Incorporated under the Privacy Act allows the Office of the Australian Information Commissioner to have oversight of its practices to the extent that those practices relate to the collection, use or disclosure of personal information. 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.</td>
</tr>
<tr>
<td>Trespass / civil action</td>
<td></td>
</tr>
<tr>
<td>Civil liability (trespass)</td>
<td>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.</td>
</tr>
</tbody>
</table>

**Offences which may apply to promoting or organising animal activist activities**

Offences which may apply to organising or encouraging animal activist activities are not specifically targeted at animal activists. General offences that could be relevant to some organisation or encouragement activities include:

- Conspiring to commit a crime: where two or more people agree to commission an offence\(^\text{12}\)

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\(^{11}\) Privacy Amendment (Protection of Australian Farms) Regulations 2019 (Cth), Explanatory Memorandum.

\(^{12}\) Crimes Act 1958 (Vic), s 321.
• Aiding, abetting, counselling or procuring the commission of an offence: where a person helps a primary offender to commit an offence or encourages a primary offender to commit an offence.13

The Commonwealth Government has recently introduced legislation into the Parliament to create new offences for using a carriage service to incite trespass or other property offences on agricultural land. See Section 6 for further information.

Key issues for consideration
• Are current legislative responses effective in deterring and responding to unauthorised animal activism activities?

6. RESPONSES OF OTHER JURISDICTIONS TO ANIMAL ACTIVIST ACTIVITIES

This section sets out the responses of other jurisdictions to incidences of unauthorised animal activist activities. The activity which prompted change is noted, as well as the action of government, regulators or police. Where possible, the impact of that change on subsequent activity is described.

Commonwealth

In January 2019, animal activist group Aussie Farms Incorporated published the addresses of more than 3000 farm and farm-related businesses on an ‘interactive animal farms map’. The Commonwealth Government responded to calls for greater regulation of Aussie Farms Incorporated by farmers and other related businesses through changes to the federal Privacy Act 1988 and related Regulations.14 Aussie Farms is now prescribed as an ‘Organisation’ under the Privacy Act.15 This means that Aussie Farms is required to act in accordance with the Privacy Act, including requirements about handling of personal information.

The Information and Privacy Commissioner has the power to investigate, either in response to a complaint or on his/her own initiative, whether Aussie Farms Incorporated has breached the Privacy Act.16 Any breach would potentially attract penalties of up to $2.1 million.17

Further to this, the Commonwealth Government has also introduced the Criminal Code Amendment (Agricultural Protection) Bill 2019 into the Parliament for debate in July 2019. The aim of this Bill is to protect ‘farmers from the actions of those who disseminate information with the intention to encourage others to unlawfully trespass, or unlawfully damage, property, on agricultural land.’18 If passed, the Bill will create new offences where a person uses a carriage service (such as the internet) to incite another person to trespass on agricultural land19 or to damage, destroy or steal property on agricultural land.20

The Bill provides protections for journalists who report material in the public interest or whistleblowers who are otherwise protected by a law of the Commonwealth, state or territory governments.21

Debate on the Bill was adjourned at the time of writing. The Bill was referred to the Senate Legal and Constitutional Affairs Legislation Committee for reporting back to the Senate by 6 September 2019.

Victoria

In late July, the Victorian Government announced a partnership with the Victorian Farmers Federation (VFF) to respond to animal welfare and biosecurity issues. This joint campaign will deliver:

• Support for farmers to respond effectively to animal welfare and biosecurity issues

13 Ibid, s 323.
14 Privacy Amendment (Protection of Australian Farms) Regulations 2019 (Cth).
15 Privacy Regulation 2013 (Cth), s 7.
19 Criminal Code Amendment (Agricultural Protection) Bill 2019 (Cth), s 2, see proposed s 474.46.
20 Ibid, sec proposed s 474.47.
21 Ibid, Explanatory Memorandum, p 2.
• A consumer-focused communications and engagement campaign. These projects will support transparency of farming practices and provide information to the community about farming and food production.

**Queensland**

In response to animal activism activities in 2019, the Queensland Government introduced amendments to the state’s *Biosecurity Act 2014* and related legislation to allow the Queensland Police Service and biosecurity officers to issue on-the-spot fines (of $652.75) to people who put on-farm biosecurity at risk (or individual fines of $2611 if prosecuted). The amendments introduce offences for anybody that enters a property where animals are kept who fails to comply with the property’s biosecurity management plan while on the premises.

The Queensland Government also announced plans to form a taskforce between its agriculture department and the state’s police intelligence unit to improve anticipation of farm trespass activities.

**United Kingdom**

The United Kingdom introduced new legislation and changes to policing practices in response to escalating animal activist activities in the late-1990s and early-2000s.

Animal rights protestors targeted animal industries, particularly animal research and pharmaceutical companies during this time. This included disruptive activities (such as protest and blockades) through to more violent activities involving intimidation, threats, stalking and assault. Some activist activities targeted the homes of employees—in 2004, up to 50 home visits by activists were recorded in England and Wales, along with 46 instances of damage to property and there were 80 arrests at demonstrations and over 40 vehicle damage offences prosecuted. Several executives of pharmaceutical companies were assaulted resulting in serious charges and prosecutions. Several large pharmaceutical companies threatened to leave the United Kingdom.

In response to this, the United Kingdom Government introduced a package of legislative reforms to manage activities characterised as ‘domestic extremism’ where research organisations, universities, farming, fur shops, establishments selling foie gras, hunting with dogs and live exports were targeted. The legislative reforms were made to existing legislation.

Changes included updates to the *Serious Organised Crime and Police Act 2001* enabling arrest of people who demonstrate outside a house in a way that causes “harassment, alarm or distress to residents”. The *Harassment Act 1997* was also updated to reduce threshold tests for people to be arrested for harassing employees. These specific changes were made against the backdrop of broader changes to ‘protest law’ in 2002 and 2003, capturing trespass in buildings and land in criminal law, rather than civil law and reduced the number of protesters required to trigger powers for police to impose conditions on an assembly or require identification details from persons acting in an anti-social manner (see changes incorporated by the *Anti-social Behaviour Act 2003* and *Police Reform Act 2002*). New offences were created for interfering with contractual relationships or threatening a person linked with an animal research organisation.

Legislative changes were supported by the establishment of specialist national policing units to reduce animal rights incidents and crimes. A national coordinator was appointed to integrate police responses to domestic extremists and animal rights extremists. Targeted companies were also encouraged to seek injunctions and share advice and good practice about preventative security measures.
From 2006 to 2010, overall animal research incidents (including protest activity, crimes and incidents at home) across the United Kingdom decreased from over 500 individual incidents a quarter to under 200 incidents a quarter.31

United States of America

The Animal Enterprise Terrorism Act originally enacted in the United States in 1992 was broadened via amendments in 2006 to prevent any person from “damaging or interfering” with the operations of an animal enterprise, causing others to reasonably fear for their lives or serious bodily injury and criminalised any conspiracy relating to either of these things.34 The legislation also criminalised causing economic damage to animal enterprises. The concepts of damaging or interfering are not defined under the legislation — it is unclear whether it includes otherwise protected activities like boycotts, picketing and leafleting. The law does make it clear that vandalism and property sabotage are now classified as acts of domestic terrorism.35

The 2006 amendments also broadened protection to include protections for any person or entity having a connection to or relationship with an animal enterprise, in addition to the original legislation which protected animal enterprises directly.36 This means that any company doing business with an animal enterprise as well as any family or other connection can seek prosecution of animal activists if economic loss can be proved. Powers were also provided to the FBI to provide for legal wiretapping of those suspecting of committing any offence under the Act.37

The Animal Enterprise Terrorism Act 1992 was originally enacted to deal with a rise in activist campaigning against fur farms in the 1980s.39 In 1998, activists were detained and eventually charged for their role in releasing thousands of minks and foxes from fur farms in several states. There were also several charges for activities aimed at disrupting pharmaceutical businesses—including for organising protests and posting personal details of employees on activist websites. Defendants were sentenced to jail time ranging from one to six years.38

When the 2006 amendments to the Act were proposed, the Judiciary Committee noted that “[c]itizens engaging in lawful activities as well as those associated with them are entitled to be protected from criminal acts... we must also protect the right of those engaged in their first amendment freedoms and expressions regarding such enterprises”.40 In addition to these federal laws, more than 20 states have also enacted ‘ag-gag’ laws which introduce offences for whistle-blowers or activists obtaining access and/or taking footage at factory farms, slaughterhouses or other ag-related operations.41 There have been concerns about the constitutionality of these laws in some states.42 There has also been criticism of some laws where the penalty for taking footage is higher than animal cruelty penalties. More broadly, opponents of this legislation have noted potential impacts of this legislation on legal forms of activism.43

Key issues for consideration
- Are there responses from other jurisdictions that should be applied in Victoria?

40 Ibid, p. 3.
1. AUSTRALIAN ANIMAL WELFARE STANDARDS
Across Australia, the states and territories have responsibility for domestic animal welfare regulation, with the Australian Government responsible for live export. All states and territories have agreed to Australian Standards for animal welfare for livestock industries. These nationally agreed standards are individually enforced by States using their legislation.

Animal welfare is an important issue and there are a number of review activities of which PrimeSafe are aware related to meat processing that are currently underway:
- the Australian Government Department of Agriculture is undertaking a review of the governance arrangements for animal welfare at a national level;
- there are two animal welfare standards currently being revised under the supervision of the Animal Welfare Task Group that is a committee of the Australian Agriculture Senior Officials Committee; and
- the Victorian Prevention of Cruelty to Animals Act, 1986 (POCTA) is under review.

2. ROLE OF PRIMESAFE
PrimeSafe is the Statutory Authority responsible for regulating the safety of red meat, poultry and seafood in Victoria. PrimeSafe has the primary objective for the provision of safe, wholesome meat, poultry and seafood for all consumers. PrimeSafe is also responsible for the regulatory management of pet food.

PrimeSafe ensures compliance with Australian Standards for food safety and uses a licensing and inspection system as a mechanism for food businesses to adopt and implement a quality assurance program so that food safety and consumer confidence are maintained.

PrimeSafe is established under the Meat Industry Act 1993 and the Seafood Safety Act 2003 and licenses meat processing facilities including red meat abattoirs, poultry processors and knackeries.

2.1 Functions of PrimeSafe
The functions of PrimeSafe are prescribed under Section 44 of the Meat Industry Act 1993 as follows:
- to control and keep under review the standards of meat, poultry meat and game meat produced for consumption or sale within the State;
- to control and keep under review the standards of the construction and hygiene of plant and equipment in a meat processing facility;
- to control and keep under review the standards of construction, maintenance, cleanliness and hygiene of meat transport vehicles;
- to ensure that appropriately qualified persons are authorised as inspectors;
- to licence meat processing facilities;
- subject to the Regulations, to determine categories of licences;
- to approve quality assurance programs and to monitor the implementation of those programs;
- in consultation with the Secretary of the Department of Health and Human Services or a municipal council, to protect public health;
- to fix and charge fees in respect of the carrying out of any of its functions or the exercise of any of its powers;
- to carry out the functions conferred on the Authority by the Seafood Safety Act 2003 or the regulations made under that Act; and
- to carry out any other function that is conferred on the Authority by the Meat Industry Act 1993 or the regulations or by any other Act or the regulations made under any other Act.

In accordance with Section 43(5) of the Meat Industry Act 1993, PrimeSafe does not represent the Crown. This means that PrimeSafe administers the legislation, but is not responsible for developing Victorian Government policy, legislation, or for the development of Standards.

2.2 Animal Welfare Regulation of Meat Processing Facilities

PrimeSafe legislation requires licensees to comply with Australian Standards for food safety. These standards include requirements for and compliance with Australian Standards for animal welfare.

PrimeSafe is committed to ensuring that all licensed facilities comply with Australian Standards including those for animal welfare.

The Australian Standards relevant to animal welfare at meat processing facilities are:
- Primary Industries Standing Committee Model Code of Practice for the Welfare of Animals Livestock at Slaughtering Establishments SCARM Report 79;
- Australian Standard for the Hygienic Production and Transportation of Meat and Meat Products for Human Consumption (AS 4696:2007);
- Australian Standard for Construction of Premises and Hygienic Production of Poultry Meat for Human Consumption (AS 4465:2005); and

2.3 Animal Welfare Enquiries

PrimeSafe provides general advice to licensees and prospective licensees that includes:
- general clarification or interpretation of Standards, legislation and guidelines;
- responding to general enquiries;
- assisting prospective licensees with PrimeSafe licensing requirements and defining appropriate licensing categories;
- conducting workshops and forums for licensees to assist them in their understanding of guidelines, licensing and compliance with Australian Standards; and
- the publication and provision of general food safety information.
PrimeSafe routinely provides assistance by responding to requests for information from a range of different sources, including existing and prospective licensees, consumers, Local Government, State Government agencies and other food regulators. Enquiries related to animal welfare are a small percentage of overall enquiries received by PrimeSafe.

Table 1: Enquiries about Animal Welfare received by PrimeSafe

<table>
<thead>
<tr>
<th></th>
<th>2018/19*</th>
<th>2017/18</th>
<th>2016/17</th>
<th>2015/16</th>
<th>Total (Average)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Animal welfare enquiries</td>
<td>49</td>
<td>41</td>
<td>42</td>
<td>64</td>
<td>196 (49)</td>
</tr>
<tr>
<td>Total enquiries</td>
<td>1,658</td>
<td>2,329</td>
<td>1,956</td>
<td>2,023</td>
<td>7,966 (1,991.5)</td>
</tr>
<tr>
<td>Percentage of total enquiries related to animal welfare</td>
<td>3.0%</td>
<td>1.8%</td>
<td>2.1%</td>
<td>3.2%</td>
<td>(2.5%)</td>
</tr>
</tbody>
</table>

*1 July 2018 to 30 March 2019

2.4 Animal Welfare Information

To reinforce industry understanding of animal welfare compliance requirements, PrimeSafe organised an animal welfare forum in October 2018. Key presentations were delivered by the:
- Chief Veterinary Officer of Victoria
- University of Melbourne
- Victoria Police
- PrimeSafe staff
- Industry

The forum was well attended by PrimeSafe licensees, including operators and quality assurance staff from abattoirs and poultry processors. The event evaluation is summarised below.

Of those who participated in the evaluation:
- The majority of respondents have a better understanding of animal welfare and how it relates to their business (mean score of 4.46 out of 5);
- The majority of respondents said that the information presented was useful to their work (mean score of 4.46 out of 5);
- The majority of respondents felt that the forum made them aware of changes they need to make to their business (mean score of 4.35 out of 5);
- The majority of respondents know where to go to get more information about managing animal welfare for their business (mean score of 4.52 out of 5); and
- The majority of respondents felt that the event was valuable to them, and as such, they will attend (or have a staff member attend) future forums (mean score of 4.73 out of 5).
2.5 Animal Welfare Audit

PrimeSafe requires all meat processing facilities to be subject to independent third party audits. The frequency of audits for licensees is set by the level of risk inherent in the product processed at the facility. For example, the greater the assessed risk, the greater the number of audits required.

Poultry processing facilities and inedible rendering facilities are subject to audits on a biannual basis (i.e. twice a year).

Abattoirs (not supervised by Commonwealth Department of Agriculture), game meat processing facilities and pet meat processing facilities require audits on a quarterly basis.

Where a non-conformance is identified at an audit, PrimeSafe will adjust the frequency of audits to ensure that the non-conformance is addressed. When an immediate threat to public health is detected, PrimeSafe prohibits the operation of the food processing activity, or the entire business, and requires that the affected food be recalled.

Major and critical non-conformances (CARs) are classified as follows:

A major non-conformance is a potential high-risk situation; a non-conformance with the requirements of the relevant Standard. This includes a non-conformance with the licensee’s documented management system and food safety program including animal welfare.

A critical non-conformance is a high-risk situation; a non-conformance with the requirements of the relevant Standard. This includes a non-conformance with the licensee’s documented management system and food safety program including animal welfare. When a critical non-conformance is identified at an audit, a PrimeSafe officer undertakes an immediate investigation.

Table 2: Animal welfare non-compliance detected at audit

<table>
<thead>
<tr>
<th></th>
<th>2018/19</th>
<th>2017/18</th>
<th>2016/17</th>
<th>2015/16</th>
<th>2014/15</th>
<th>Total (Average)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Animal Welfare CARs</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td>0</td>
<td>0</td>
<td>4 (0.8)</td>
</tr>
<tr>
<td>Total CARs</td>
<td>188</td>
<td>288</td>
<td>194</td>
<td>185</td>
<td>296</td>
<td>1,151 (230.2)</td>
</tr>
</tbody>
</table>

Percentage of total CARs related to animal welfare non-compliance: 0.5% 0.7% 0.5% 0% 0% (0.35%)
2.6 Animal Welfare Surveillance

Unannounced inspections of all licensed abattoirs, pet meat processing facilities handling live animals and poultry processing facilities are conducted on a biannual basis to ensure compliance with the relevant Australian Standard.

The unannounced inspection of abattoirs and poultry processors concentrates on animal welfare and involves 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.

Unannounced inspections of pet meat processing facilities involve an assessment of the collection of animals in the field, restraint, stunning and exsanguination equipment processes, together with a review of associated procedures as documented in the food safety program. Since the inception of this surveillance program in 2013, there has been a gradual increase in compliance with animal welfare standards at unannounced surveillance inspections.

Table 3: Animal Welfare non-compliance detected at unannounced inspections

<table>
<thead>
<tr>
<th></th>
<th>2018/19</th>
<th>2017/18</th>
<th>2016/17</th>
<th>2015/16</th>
<th>2014/15</th>
<th>Total (Average)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Number of unannounced inspections</strong></td>
<td>66</td>
<td>76</td>
<td>84</td>
<td>90</td>
<td>102</td>
<td>418 (83.6)</td>
</tr>
<tr>
<td><strong>Animal Welfare non-compliance detected</strong></td>
<td>0</td>
<td>3</td>
<td>3</td>
<td>6</td>
<td>1</td>
<td>13 (2.6)</td>
</tr>
<tr>
<td><strong>Percentage of non-compliances at unannounced inspections for the year</strong></td>
<td>0%</td>
<td>4%</td>
<td>3.6%</td>
<td>7%</td>
<td>1%</td>
<td>(3.1%)</td>
</tr>
</tbody>
</table>

2.7 Animal Welfare Complaints

PrimeSafe views all complaints seriously and investigates complaints in relation to:
- food safety or animal welfare issues or non-compliance with the applicable standards at a licensed meat processing facility, or a meat transport vehicle;
- the operation of an unlicensed facility or vehicle;
- the service delivery of PrimeSafe;
- inadequate performance of an accredited third-party auditing body or an individual auditor; or
- a breach of the Information Privacy Principles under the Privacy and Data Protection Act 2014.

PrimeSafe does not investigate complaints in relation to:
- customer service grievances;
- product that is fit for human consumption but considered to be of poor quality; or
- issues where no substantiating evidence is provided to support an allegation.

Complaints regarding food borne illnesses or nuisances may be investigated by PrimeSafe or local councils depending on the nature of the complaint. Complaints regarding facilities registered with local councils, such as supermarkets and restaurants, are directed to the council where the facility is located.
As outlined in the table below, the number of animal welfare complaints is a small percentage of overall complaints managed by PrimeSafe.

**Table 4: Complaints related to animal welfare relative to all complaints**

<table>
<thead>
<tr>
<th></th>
<th>2018/19</th>
<th>2017/18</th>
<th>2016/17</th>
<th>2015/16</th>
<th>2014/15</th>
<th>Total (Average)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Animal Welfare Complaints received</td>
<td>13</td>
<td>13</td>
<td>7</td>
<td>11</td>
<td>7</td>
<td>51 (10.2)</td>
</tr>
<tr>
<td>Total complaints received</td>
<td>341</td>
<td>381</td>
<td>385</td>
<td>370</td>
<td>334</td>
<td>1811 (362.2)</td>
</tr>
<tr>
<td>Animal Welfare Complaints substantiated</td>
<td>5</td>
<td>2</td>
<td>3</td>
<td>2</td>
<td>2</td>
<td>14 (2.8)</td>
</tr>
<tr>
<td>Total complaints substantiated</td>
<td>108</td>
<td>118</td>
<td>123</td>
<td>123</td>
<td>131</td>
<td>603 (120.6)</td>
</tr>
<tr>
<td>Percentage of total substantiated animal welfare complaints of all substantiated complaints</td>
<td>4.6%</td>
<td>1.7%</td>
<td>2.4%</td>
<td>1.6%</td>
<td>1.53%</td>
<td>2.3%</td>
</tr>
</tbody>
</table>

Over the last five years, animal welfare complaints received were a small percentage of total complaints received at PrimeSafe (2.8% of total complaints). On average, 10.2 animal welfare complaints are received each year, with an average of 2.8 of these complaints being substantiated.

From the animal welfare complaints data above, it is important to note that some complaints are received via animal welfare advocacy groups and are also included in the following information about media enquiries.
2.8 Animal Welfare Media

Various media companies make enquiries with PrimeSafe about animal welfare. Typically, media enquiries are received by PrimeSafe when a third party provides comment on the internet, via social media or makes direct contact with a media company.

Table 6: Animal welfare media events relative to all media enquiries received by PrimeSafe

<table>
<thead>
<tr>
<th></th>
<th>2018/19</th>
<th>2017/18</th>
<th>2016/17</th>
<th>2015/16</th>
<th>2014/15</th>
<th>Total (Average)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Animal welfare media enquiries to PrimeSafe</td>
<td>3</td>
<td>8</td>
<td>16</td>
<td>2</td>
<td>1</td>
<td>30 (6)</td>
</tr>
<tr>
<td>Total media enquiries to PrimeSafe</td>
<td>14</td>
<td>18</td>
<td>28</td>
<td>19</td>
<td>1</td>
<td>80 (16)</td>
</tr>
<tr>
<td>Animal welfare media items</td>
<td>3</td>
<td>5</td>
<td>1</td>
<td>2</td>
<td>0</td>
<td>11 (2.2)</td>
</tr>
<tr>
<td>Animal welfare media items related to an investigation</td>
<td>1</td>
<td>3</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>7 (1.4)</td>
</tr>
<tr>
<td>Animal welfare media items related to a substantiated investigation</td>
<td>0</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>0</td>
<td>4 (0.8)</td>
</tr>
</tbody>
</table>

An example of a media event related to animal welfare, where there was no animal welfare regulatory action required was the Dominion Anniversary Protest. While PrimeSafe is responsible for animal welfare regulation at meat processing facilities, it is also responsible for food safety. During the event, PrimeSafe monitored the situation to determine any information about current non-compliance with Australian Standards for animal welfare. No current non-compliance was detected.

This media event seemed to target meat processing facilities for disruption purposes, with the potential for food safety to be compromised. Given the potential for this to occur, PrimeSafe assisted Victoria Police in regards to public safety at meat processing facilities. PrimeSafe also assisted meat processing facilities with information about options to ensure food safety was not compromised in the event of a protest incursion.
3 PRIMESAFE OBSERVATIONS

PrimeSafe provides information about Australian Standards for animal welfare and monitors and enforces compliance with them by Victorian meat processing facilities. Enforcement may involve legal directions or sanctions, typically including increased audit and surveillance of meat processing facilities when non-compliance with Australian Standards for animal welfare is detected. This approach is used because PrimeSafe only has the legislative power to prohibit or prosecute activities at a meat processing facility for the purposes of public health.

PrimeSafe uses conditions of licence to require compliance with outcome based Australian Standards by meat processing facilities. The outcome-based Standards are not prescriptive to allow businesses the opportunity to innovate, develop new technologies, and continually progress best practice. However, as the Standards are not prescriptive, it can be difficult for both the business and the regulator to determine acceptable minimum standards. This difficulty is not restricted to animal welfare, but includes a range of food processing techniques. Achieving a balance between the outcome-based descriptions used in standards, with the prescription to describe minimum standards is especially difficult for small businesses. To assist the Committee to understand this concept, a case study is provided.

CASE STUDY - RESTRAINT

When non-compliance with Australian Standards for animal is identified at a meat processing facility, especially when handling sheep, it often relates to inappropriate restraint prior to stunning of animals. Proper restraint prevents animals from moving about prior to stunning to minimise stress leading up to stunning to cause insensibility prior to exsanguination.

The relevant Australian Standard encourages the use of “V” shaped conveyors of suitable design for complete constraint, and that they should be inspected regularly and be maintained in good working order. An example is shown below.

The V shaped conveyors are frequently used in abattoirs in Victoria. The above example is able to be adjusted to allow for different sized sheep to be effectively restrained. However, some V shaped conveyors are not adjustable which can result in animal welfare non-compliance as large or small sheep are not able to be adequately restrained. Furthermore, the standard does not prescribe that a conveyor be adjustable, just that restraint be effective.

This type of non-compliance creates a difficulty for PrimeSafe to enforce this element of the Australian Standard for animal welfare. When non-compliant restraint is detected, PrimeSafe has limited regulatory tools as there is no food safety breach and PrimeSafe is only able to prohibit an activity at a meat processing facility for the purpose of food safety (not animal welfare). Furthermore, the Standard requires an outcome, but is not prescriptive about how it is achieved. Some businesses wish to use a non-adjustable conveyor, and the Standard does not prescribe that it must be adjustable. The sanction that is able to be used by PrimeSafe to manage non-compliance is increased monitoring via audit of the meat processing facility until the outcome is achieved. This places a financial penalty on the business and ensures regular independent monitoring that is maintained until compliance is achieved.
In some cases, it has been difficult for PrimeSafe to take immediate enforcement action in response to detected animal welfare non-compliance so that community expectations can be met. PrimeSafe does refer matters of non-compliance with Australian Standards for animal welfare to the Department of Jobs, Precincts and Regions, Chief Veterinary Officer for investigation into offences against POCTA.

This submission provides information about the incidence of animal welfare non-compliance in Victorian meat processing facilities and the activities of PrimeSafe to both inform business of their requirements in regards to animal welfare and to monitor and enforce compliance with Australian Standards. While Standards could be improved, current regulatory activities are effective in managing individual incidents and the generation of long term improvement in animal welfare management by the Victorian meat processing industry. Complaints from the public about potential animal welfare non-compliance are a useful part of these arrangements. However, animal welfare matters that attract media attention are not always linked with current non-compliance by businesses. For example, over 5 years, 30 media enquiries were related to 4 substantiated animal welfare investigations.
Appendix 2  Comparison of Victorian legislation to other Australian jurisdictions

Summary of trespass laws across Australian jurisdictions

<table>
<thead>
<tr>
<th>State</th>
<th>Provisions</th>
<th>Maximum penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>VIC</td>
<td>Summary Offences Act 1966</td>
<td>$4000 or 6 months’ imprisonment</td>
</tr>
<tr>
<td>NSW</td>
<td>Inclosed Lands Protection Act 1901</td>
<td>$550 (farm only)</td>
</tr>
<tr>
<td>QLD</td>
<td>Summary Offences Act 2005</td>
<td>$1300 or 6 months’ imprisonment</td>
</tr>
<tr>
<td>SA</td>
<td>Summary Offences Act 1953</td>
<td>$2500 or 6 months’ imprisonment</td>
</tr>
<tr>
<td>WA</td>
<td>Criminal Code Act Compilation Act</td>
<td>$12,000 or 12 months’ imprisonment</td>
</tr>
<tr>
<td>TAS</td>
<td>Police Offences Act 1935</td>
<td>$4200 or 6 months’ imprisonment</td>
</tr>
<tr>
<td>NT</td>
<td>Trespass Act 1987</td>
<td>$3100 or 6 months’ imprisonment</td>
</tr>
</tbody>
</table>