



Submission due by 6<sup>th</sup> March, 2017

**Submitted by:** Animal Justice Party, Victoria

### **About the Animal Justice Party**

The Animal Justice Party (AJP) is part of a global and growing political movement that is committed to the interests of non-human animals. The party was officially registered in 2011 as a response to growing public concern about the neglect of the major political parties to consider the consequences of their decisions to the welfare of animals. The party's mission is to promote and protect the interests of animals by providing a dedicated voice for them in the political system. Since 2011 we have contested two federal and many state and territory elections. In 2015, Mark Pearson became the first AJP member to be elected into the NSW Legislative Council. During the 2016 federal election, across the country, there were 12 AJP candidates running in the senate and over 40 candidates running in the lower house. Although we did not win a seat in either the senate or the lower house, our preferences were significant in determining the winning candidate in several seats across the country.

### **Terms of Reference for The Current Submission**

#### **1. The appropriateness and use of its powers pursuant to the Prevention of Cruelty to Animals Act 1986, including in the context of its other objectives and activities;**

##### **1.1 The RSPCA's Purpose for Existence**

On its website [1], the RSPCA describes itself as “a non-government, community based charity that works to prevent cruelty to animals by actively promoting their care and protection.” and as “Australia's leading animal welfare charity”.

It's self described mission is to “educate the community regarding animal welfare”. It “works with government and industry to ensure the standard of animal welfare and care continues to improve”.

##### **1.2 The RSPCA and the Prevention of Cruelty to Animals Act**

The RSPCA's primary charter is to prevent animal cruelty. Thus its activities relate primarily to the Prevention of Cruelty to Animals Act (POCTA - 1986). The purpose of the act is S.1 to: “to (a) prevent cruelty to animals; (b) to encourage the considerate treatment of animals; and (c) to improve the level of community awareness about the prevention of cruelty to animals.”

Unfortunately, the majority of animals whose lives are affected by humans fall outside of this act's protection.

As stated on pages 10 and 11 of the POCTA document (2010 revised version) – Part 1, point 6;

“This Act does not apply to:

(a) the slaughter of animals in accordance with the Meat Industry Act 1993 or any Commonwealth Act<sup>1</sup>; or

(b) except to the extent that it is necessary to rely upon a Code of Practice as a defence to an offence under this Act the keeping, treatment, handling, transportation, sale, killing, hunting, shooting, catching, trapping, netting, marking, care, use, husbandry or management of any animal or class of animals (other than a farm animal or class of farm animals) which is carried out in accordance with a Code of Practice; or

(c) any act or practice with respect to the farming, transport, sale or killing of any farm animal which is carried out in accordance with a Code of Practice; or

(d) anything done in accordance with the Catchment and Land Protection Act 1994;

or

(e) the treatment of any animal for the purpose of promoting its health or welfare by or in accordance with the instructions of a veterinary practitioner; or

(f) the slaughter of a farm animal on a farm if—

(i) it is slaughtered for consumption on that farm; and

(ii) it is slaughtered in a humane manner;

and

(iii) it is not slaughtered for sale; and

(iv) it is not slaughtered for use in the preparation of food for sale; and

(v) it is not removed from that farm; or

(g) any fishing activities authorised by and conducted in accordance with the Fisheries Act 1992.

(1B) This Act, except Part 3, does not apply to anything done in accordance with the Wildlife Act 1975.

(2) In subsection 6(1)(f) farm has the same meaning as in the Meat Industry Act 1993

### **1.3 Codes of Practice aka Codes of Cruelty**

By far, the greatest numbers of animals are reared and killed for food. In Australia alone, over 500 million animals are raised for food every year in factory farms [2].

Since it is legally accepted that economic interests should supersede welfare considerations, governments facilitate the methods used for intensive farming **by not legislating against cruelty** for these animals [3].

Australia's *Codes of Practice* deliberately exclude industry or economic animals from protection against cruel treatment. Indeed, they have been referred to as "Codes of Cruelty" by legal authorities and others outside the animal industries [2].

These codes exclude animals reared for food or wool, dogs kept in puppy farms for breeding, greyhounds and horses bred, raised, kept and killed for the racing industry, and animals used for experimentation and entertainment (e.g. circus animals) **from animal welfare laws**. Rather, they **legalize the cruelty** that these animals are subjected to.

Examples include the following treatments, which are made legal through the relevant code of practice.

- **Mother pigs** are locked up in crates that are barely bigger than their bodies for most of their pregnancy (i.e., gestation crates).
- Their **off-spring (baby piglets)** routinely have their tails and teeth cut off without any form of pain relief [4]. That these procedures are painful is evident from the trembling and vomiting of the piglets that follows.
- **Dairy cows** have been genetically manipulated through selective breeding to produce around 35-50 liters of milk per day, which is around 10 times more than calves would need if they were allowed to suckle from their mother [5]. The unnaturally increased weight of the cow's udder causes painful stretching or tearing of ligaments, and infections such as mastitis. Since milk production relies on the constant production of dairy calves, the dairy cow is impregnated soon after she has been milked to capacity from her previous calving. She is kept alive as a milking machine for as long as she is able to produce enough milk to make her a "profitable unit". This is about 7 years as opposed to an average of 20 years for non-factory farmed cows [6].
- In the dairy industry, **calves (mostly male calves – referred to as Bobby calves)** are considered a waste product. Cows are mammals, and as such develop a strong maternal bond with their calves within as little as five minutes after they are born [7]. This bond, which exists in all mammals, promotes the survival of offspring. Separation between mother and baby causes significant separation distress [8]. Cows will bellow calling for their young for days after they have been taken away. Despite this calves are removed from their mothers soon after birth so that as much milk as possible can be sold for profit [6].
- **Male chickens** from the egg industry are also considered waste products and as many as 11 million are killed each year within a few hours of life by methods such as being gassed to death or collectively ground alive [6].
- Other invasive and painful intensive farming practices include the castrating, dehorning and docking of calves' tails.
- In **male calves**, castration is carried out without local or general anaesthesia in calves under six months of age.
- **Females calves** are surgically spayed whilst the females are restrained. There is no specified requirement that an anaesthetic be used for any of these practices [9].
- As with cows, sheep also have their tails docked without anaesthesia.
- **Lambs** younger than 12 weeks of age are also castrated without pain relief. Mulesing is also carried out on lambs. This involves the removal of wool-bearing skin from part of the breech area of the sheep, also without anaesthesia [10].

So, in effect, the RSPCA is charged with preventing **only** the cruelty that occurs **over and above the cruelty that is legal**. Thus, such cruelty represents a significantly small

proportion of the overall real level of animal cruelty that actually exists, but is protected by Codes of Practice.

It is concerning therefore that, even in these minority of cases, the RSPCA has not always effectively acted to prevent or expose cruelty. A significant number of animal cruelty cases have been brought to the public's attention by non-profit organizations such as Animals Australia and Animal Liberation. The 2015 expose of live baiting in the greyhound racing industry is one significant example but there are many others (see submission by the Animal Cruelty Hotline).

#### **1.4 RSPCA's Prosecution Powers**

As the primary law enforcement body of POCTA in Victoria, it would be reasonable to expect that the RSPCA would devote a considerable amount of its resources to prosecution of acts of cruelty toward animals. Statistically, the RSPCA has laid charges for less than 1% of all cruelty complaints received [11]. Whilst it is reasonable to expect that not all cruelty complaints that are investigated would be sufficiently severe to attract prosecution, it is extremely unlikely that such would apply to 99% of cruelty complaints.

An inescapable conclusion is therefore that Victoria's (and indeed Australia's) animal welfare system is fundamentally flawed and severely failing to protect animals from cruelty.

Since the RSPCA funds its own prosecutions, the organization is careful to mount legal cases only when it is extremely confident that it will not lose the case and even then, all court ordered fines in any prosecution case will go to the government, not to RSPCA. If animal cruelty is to be adequately prevented and prosecuted, there need to be systemic changes.

For animals to be effectively protected against cruelty, Victoria (indeed Australia) needs an Independent Office of Animal Welfare (IOAW). As previously proposed by the Animal Justice Party, the recommended IOAW model is one of an independent, central and active voice for animals. To preserve its independence and avoid the current conflicts of interest that plague animal welfare regulation at a state and territory level, an IOAW must be established as an independent statutory authority, with its functions, powers and administration enshrined in legislation.

The IOAW should be responsible for:

- coordinating, developing and implementing animal welfare and protection standards;
- investigating a new approach to protecting animals under the law, including the enforceability of animal cruelty-related court orders in all jurisdictions, and the status of animals in law as sentient beings;
- engaging with a wide range of stakeholders (including animal welfare, protection and rights groups, industry bodies, and experts) on animal welfare standards;
- working with the police force to develop specialised teams of officers who are charged with enforcing animal welfare and animal cruelty law;
- creating a centralised database for animal welfare and protection information (including legal, scientific and regulatory information) for the purpose of educating and informing law and policy makers, law enforcement authorities, the legal system, and importantly, the public, on current animal welfare and protection-related topics; and

The IOAW must also have the opportunity to encourage, support and commission animal science and research into any topics related to its delegated responsibilities, with a view to better informing its and the Commonwealth's decision-making [12].

The maintenance of law and the prosecution of crimes is a central role for governments. While the role of the RSPCA in prosecuting crimes against animals has developed as a historic exception, this needs to be revisited. We maintain that the government, through the IOAW should take a central role in prosecuting crimes, relieving the RSPCA fully or partly from that duty.

In no way should this suggestion for systemic change imply that we are anything but confident that the officers and staff of the RSPCA are not committed to good animal welfare outcomes. They are, however, hamstrung within a historic role and context that is failing animals.

## **2. The appropriateness and use of funding provided by the Victorian Government, including in the context of its other objectives and activities**

According to its 2015 financial report, the RSPCA Victoria earned a total income of \$33,226,000. With a budget in excess of \$30 million annually, the limited actions on animal cruelty taken by the RSPCA suggest that the failure of RSPCA to handle animal cruelty is not just one of inadequate resources but rather one of systemic failure.

Currently, the RSPCA sits within the Department of Agriculture, which is responsible for animal agriculture and the development of Codes of Conduct (Cruelty). Therefore, the greatest problem with the current system is an overarching conflict of interest or lack of independence of the RSPCA.

Being, to some extent, beholden to the Department of Agriculture, the RSPCA is seriously restrained with regard to its ability to act in the best interests of animals since the interests of farmers and industry must take precedence. Yet again, this points to the only effective solution to preventing and prosecuting animal cruelty being the establishment of an IOAW.

## **3. Any other consequential matters the Committee may deem appropriate.**

It is important that efforts to work toward the prevention of cruelty to animals adopt a national approach. Currently prevention of animal cruelty laws differ across different Australian jurisdictions. This impediment to animal welfare needs to be addressed by adopting a national system with national cruelty laws and one national Independent Office for Animal Welfare. Such an approach is supported by both the Animal Justice Party and the RSPCA itself (see attachment in submission by the Animal Cruelty Hotline).

## **References**

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