

Submission – Stephen Tate, [REDACTED]

1. RSPCA by agreement (Memorandum of Understanding with the Department of Economic Development, Jobs, Training and Resources) accepts primary responsibility for non-commercial livestock, companion animal and recreational animal (including horse racing etc..) cruelty investigations. It is also involved in wildlife and pest animal cruelty investigations. It receives an annual government grant that would cover approximately 50% of its inspectorate operating costs, including legal costs. The grant is capped but the expectation to handle cases is not. This causes the RSPCA to have to fund excess cost from its charity resources without an ability to reclaim those costs. If successful in a prosecution the legal costs and cost of evidence preparation may be applied for. Some cases involve very significant costs for seizure and rehabilitation or destruction of animals. This puts significant financial pressure on the RSPCA at times if cases are contested over a long period. The court may permit the RSPCA to seek a bond through the court from the owner to defray the costs to maintain seized animals until a case is heard, but this often does not meet the total outlaid. While donors to the RSPCA may be willing to contribute to the cost of this inspectorate activity it is nevertheless a government enforcement responsibility and relying on the RSPCA to meet these costs may be unreasonable.

2. **+The government needs to enable the RSPCA to claim costs of investigation for any case it successfully prosecutes.**

+The government should consider a contract for services and funding arrangement with an ability for the RSPCA to seek variation for circumstances requiring extra resources, as might the government departments.

3. The RSPCA inspectorate is a separate unit to its animal hospital, education and policy lobby units. This demarcation may not be clear to the community but it is a separate function and no conflict of interest occurs. That said, organisations frequently criticise the RSPCA that it uses its inspectors to pursue its policy objectives that may be beyond the requirements of the Act or the wishes of government. The Victorian Ombudsman has specific powers to investigate such use/misuse of powers by RSPCA inspectors. The RSPCA conducts itself according to public service code of conduct and the department enforcement policy. It provides quarterly reports to Ecodev on its activity and a liaison group exists that considers issues and legislation development. In addition, the RSPCA provides an annual report to the Minister for Agriculture on its activities, usually drawn from its Annual General Meeting report. The RSPCA refers cases to Ecodev where it perceives a conflict of interest.

+ The government needs to use the powers of the Ombudsman to develop annual reports on the conduct of RSPCA inspectors or the Minister of Agriculture should provide this to Parliament routinely.

4. The RSPCA inspectorate is the only full-time animal cruelty investigation unit in Victoria appointed under the Prevention of Cruelty to Animals Act 1986 (the Act). All Police, many local government officers (appointed under the Domestic Animals Act) and animal biosecurity

officers (veterinary officers and animal health officers) in the Department of Economic Development, Jobs, Training and Resources (Ecodev), and some Department of Environment, Water, Land and Planning (DEWLP) officers are authorised as inspectors under the Act. But their activity is only part of their general responsibilities. The Police tend to limit their attendance to emergencies and criminal activity impacting on animals; local government to its duties in pet management and emergencies; the Ecodev accepts primary responsibility for investigation of commercial livestock cruelty. The RSPCA has a memorandum of understanding with Ecodev and the Police that attempts to coordinate their interaction or coordinated investigations with these departments.

There is no central database of investigation management and recording. Each organisation has its own system of recording and reporting. There is a central database of bans on ownership of animals operated by Ecodev. The Magistrates Court provides summary downloads of its cases and decisions to Ecodev which can be useful in studying which offences are causing the most activity and some detail on penalties.

+The government needs to consider whether this matrix of different departments and officers providing cruelty investigations is operating in a coordinated manner.

+ Development of a central database for animal cruelty recording and reporting would enable government and the inspectorates to better understand enforcement activity, uses of powers, success of legislation and outcomes of cases.

5. All these inspector organisations provide their own training programs. Competencies have been developed for animal welfare inspectors by Ecodev and auditors have concluded that the RSPCA and Ecodev training programs are compliant. RSPCA assist Police in their training program. Local governments train their officers in regulation and council duties which provides sufficient to undertake the roles they accept responsibility for. Overall there is no central training program for animal welfare regulation competency and the outcomes would be quite variable as regards experience and competency of officers to undertake complex investigations.

+ Government should review the training programs of these organisations to ensure that a minimum level of competency is achieved for enforcement purposes.

6. It is unusual for a NGO to be legally authorised to raise its own prosecutions. RSPCA uses its own legal advisers and this is often provided pro bono. Normally this would be a responsibility of the Public Prosecutor or Police or trained legal officers in a government department. As a consequence, this leaves the RSPCA liable for costs and damages should they lose a case. As a charity relying on bequests and donations this can cause a severe financial impact in very large and complex cases and this has happened recently eg. Large scale seizures of dogs, cats, rabbits, fighting dogs and cockerels, reptiles and horses. Such losses make the RSPCA more cautious in its enforcement activity which can be deleterious and cause public dissatisfaction with their willingness to enforce. As they are undertaking this work instead of government officials (Police, Local government and Department of Ecodev staff) government should prosecute RSPCA cases or provide legal protection or insurance for RSPCA inspectors as if they were government employees.

+Government should consider if it is appropriate to require all RSPCA prosecutions to be conducted by government prosecutors. Particularly those cases with large financial cost or consequences.

+Government may consider that it is the responsibility of government departments to arrange and enact large scale animal seizures for holding until court cases are completed ie the RSPCA is fully assisted by government, or arrangements are put in place to fund the RSPCA to undertake these tasks.

7. Inspector appointment is approved by the Minister for Agriculture and enforcement activity is undertaken in accordance with a Memorandum of Understanding rather than a contract for service. The Minister can remove authorisation of an RSPCA inspector. The Victorian Ombudsman has power to investigate the use or misuse of RSPCA use of powers under the Act. This is the same for all other inspectorate groups. I am not aware that these groups can compile a single report to Parliament on animal cruelty activity that would assist government to understand the success or usefulness of its various legislation initiatives to amend the Act.

+Government should develop a requirement for an annual report of animal cruelty activity under the Act. This may cause a need for a central database for investigations and prosecutions.

8. The RSPCA has sufficient powers to investigate reports of animal cruelty. Where it lacks power is to randomly enter properties to investigate situations that they believe should be reviewed ie random surveillance or revisits. While this may be unpopular for animal industry participants or animal owners, the recent greyhound industry welfare debacle, significant abattoir cruelty cases, puppy farm welfare and large scale horse welfare issues should have been situations that RSPCA or Ecodev officers had reviewed and detected based on random inspection based on risk assessment or intelligence. Too often these serious animal welfare situations are exposed by animal welfare activists using illicit surveillance rather than inspectors acting legitimately under the Act.

+Government should review its funding of routine or random surveillance of animal industries and develop sufficient auditing to satisfy itself that current animal welfare standards are being maintained to community expectations.