LEGISLATIVE COUNCIL

PORTFOLIO COMMITTEE NO. 4

Provisions of the Prevention of Cruelty to Animals Amendment (Restrictions on Stock Animal Procedures) Bill 2019

Report 45

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Portfolio Committee No. 4 - Industry

Provisions of the Prevention of Cruelty to Animals Amendment (Restrictions on Stock Animal Procedures) Bill 2019

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Terms of reference

That:

(a) the provisions of the Prevention of Cruelty to Animals Amendment (Restrictions on Stock Animal Procedures) Bill 2019, the bill be referred to Portfolio Committee No. 4 – Industry for inquiry and report by the last sitting day in September 2020, and

(b) the second reading and subsequent stages not proceed until the report of the committee has been tabled.

The terms of reference were referred to the committee by the Legislative Council on 17 June 2020,[1] with the reporting date extended on 18 June 2020.[2]

1 *Minutes*, NSW Legislative Council, 17 June 2020, p 1064.

2 *Minutes*, NSW Legislative Council, 18 June 2020, p 1076.

Committee details

Committee members

The Hon Mark Banasiak MLC	Shooters Fishers and Farmers Party	*Chair*
The Hon Lou Amato MLC	Liberal Party	
The Hon Catherine Cusack MLC	Liberal Party	
The Hon Sam Farraway MLC	The Nationals	
The Hon Mark Pearson MLC*	Animal Justice Party	
The Hon Peter Primrose MLC	Australian Labor Party	
The Hon Mick Veitch MLC	Australian Labor Party	

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* The Hon Mark Pearson MLC substituted for the Hon Emma Hurst MLC from 25 June 2020 for the duration of the inquiry.

Chair's foreword

The Prevention of Cruelty to Animals Amendment (Restrictions on Stock Animal Procedures) Bill 2019 seeks to amend the *Prevention of Cruelty to Animals Act 1979* to prohibit the performance of the Mules procedure on sheep from 1 January 2022, as well as to require the administration of pain relief in certain procedures involving stock animals.

The bill raises fundamental questions about what is in the best interests of sheep and other animals involved in stock procedures. While there were widely differing views expressed in this inquiry as to how the best interests of the animals are served, it was clear that welfare concerns are front of mind for both industry and animal welfare groups. Based on the evidence, the committee concluded that banning mulesing from 1 January 2022 and making the use pain relief mandatory in certain stock procedures, as the bill proposes, is not the right way forward.

I also want to note that the Legislative Council has already voted on this bill, where it was defeated on the second reading. Whilst this inquiry has given the committee an opportunity to further examine issues at the heart of the bill and to hear from stakeholders about their views, nothing about the bill has changed since the House voted it down. For this reason, the committee has recommended that the bill not proceed in its current form.

On behalf of the committee, I wish to express my gratitude to my committee colleagues and all who participated in the inquiry.

The Hon Mark Banasiak MLC
Committee Chair

Recommendations

Conduct of inquiry

The terms of reference for the inquiry were referred to the committee by the Legislative Council on 17 June 2020.

The committee received 32 submissions. An online questionnaire was also conducted which received 13,076 individual responses.

The committee held one public hearing at Parliament House in Sydney.

Inquiry related documents are available on the committee's website, including submissions, hearing transcripts, the report on the online questionnaire, tabled documents and answers to questions on notice.

Chapter 1 Background and overview

This chapter provides background on the Prevention of Cruelty to Animals Amendment (Restrictions on Stock Animal Procedures) Bill 2019, along with an overview of the current practice regarding mulesing. It also examines the changes proposed by the bill to the *Prevention of Cruelty to Animals Act 1979*, including banning mulesing from 1 January 2022 and requiring the administration of pain relief in certain procedures involving stock animals.

Referral

1.1 The Prevention of Cruelty to Animals Amendment (Restrictions on Stock Animal Procedures) Bill 2019 (hereafter, the bill) was introduced into the Legislative Council on 22 August 2019 by the Hon Mark Pearson MLC. On 27 February 2020, the bill was negatived on the second reading.

1.2 On 17 June 2020, on the motion of the Hon Mark Pearson MLC the bill was restored to the Notice Paper to allow it to be referred to Portfolio Committee No. 4 – Industry for inquiry and report by 24 September 2020.

Background

1.3 Mulesing (also referred to as the Mules procedure) is currently legal across all Australian jurisdictions. Within New South Wales, its performance is regulated by s 24(1) of the *Prevention of Cruelty to Animals Act 1979*. This section provides a defence to an offence under Part 2 of the Act where the procedure is performed:

- on a sheep less than 12 months of age
- for the purpose of mulesing
- in a manner that inflicts no unnecessary pain upon the animal.[3]

1.4 Mulesing refers to the surgical removal of the breech, tail, skin folds or wrinkles of a sheep. As the NSW Government submission notes, mulesing is generally undertaken to reduce the likelihood of the animal developing flystrike.[4] Flystrike occurs when a blowfly lays eggs on the skin of the sheep and the emerging larvae create an open wound as they feed on the underlying skin tissue. The condition can be fatal if left untreated.[5]

1.5 During his second reading speech on the bill, the Hon Mark Pearson MLC described how the procedure is performed:

> The procedure is usually undertaken on a lamb at less than six months of age. The lamb is constrained in a device known as a cradle. While laid prone on its back, a pair of sharp

3 Submission 4, RSPCA Australia and RSPCA New South Wales, p 3.

4 Submission 28, NSW Government, p 4.

5 Submission 28, NSW Government, p 7.

> shears or another sharp implement is used to cut away at the skin around the breech area.[6]

1.6 The administration of pain relief for mulesing is not currently required under the *Prevention of Cruelty to Animals Act 1979*. However, according to the NSW Government submission, its administration is considered part of best practice under the Australian Animal Welfare Standards and Guidelines:

> … the Australian Animal Welfare Standards and Guidelines … state that where mulesing is performed, it is best practice for lambs to be mulesed between 2 and 12 weeks old, accompanied by pain relief where practical and cost-effective methods are available.[7]

1.7 Evidence received from a number of stakeholders, including the Pastoralists Association of West Darling and Australian Council of Wool Exporters and Processors and the Private Treaty Wool Merchants of Australia, suggested that despite the administration of pain relief not being a legal requirement, its use is widespread.[8] In this regard, stakeholders such as the Australian Woolgrowers Association told the committee that over 80 per cent of lambs are mulesed with some form of pain relief,[9] whilst Mr Scott Hansen, Director-General, Department of Primary Industries gave evidence that usage of pain relief during mulesing was closer to 85 per cent across six states.[10]

1.8 In July 2020, Victoria became the first Australian jurisdiction to mandate pain relief for the performance of mulesing on lambs.[11]

Provisions of the bill

1.9 This bill seeks to amend the *Prevention of Cruelty to Animals Act 1979* to prohibit the performance of the Mules procedure on sheep. Schedule 1 would insert a new section 23B into the Act, which would make it an offence to perform the Mules procedure on a sheep from 1 January 2022.

1.10 The bill also seeks to require the administration of pain relief in certain procedures involving stock animals through proposed amendments to section 24(1) of the Act. These procedures include:

- stock animal—in the course of, and for the purpose of, ear-marking or ear-tagging the animal or branding, other than firing or hot iron branding of the face of, the animal

6 The Hon Mark Pearson MLC, Second reading speech: Prevention of Cruelty to Animals Amendment (Restrictions on Stock Animal Procedures) Bill 2019, 26 September 2019.

7 Submission 28, NSW Government, p 2.

8 Submission 10, Pastoralists Association of West Darling, p 1; Submission 18, The Australian Council of Wool Exporters and Processors (ACWEP) and the Private Treaty Wool Merchants of Australia (PTWMA), p 2.

9 Submission 2, Australian Woolgrowers Association, p 3.

10 Evidence, Mr Scott Hansen, Director-General, Department of Primary Industries, 11 August 2020, p 3.

11 Submission 14, NSW Young Lawyers (The Law Society of New South Wales), p 4; Submission 2, Australian Woolgrowers Association, p 4.

- a pig of less than 2 months of age or a stock animal of less than 6 months of age which belongs to a class of animals comprising cattle, sheep or goats—in the course of, and for the purpose of, castrating the animal
- a goat of less than 1 month of age or a stock animal of less than 12 months of age which belongs to the class of animal comprising cattle—in the course of, and for the purpose of, dehorning the animal,
- a sheep of less than 6 months of age—in the course of, and for the purpose of, tailing the animal, or
- a sheep of less than 12 months of age—in the course of, and for the purpose of, performing the Mules operation upon the animal.

1.11 The effect of this amendment would be to require a person to administer an analgesic or other appropriate form of pain relief in the course of undertaking the above procedures, in order to have the benefit of a defence to certain animal cruelty offences.[12] On the Mules procedure specifically, this provision would require pain relief to be administered during its performance up until 1 January 2022, from which date the procedure would be banned.

12 Submission 4, RSPCA Australia and RSPCA New South Wales, p 2.

Chapter 2 Key issues

This chapter outlines the key issues raised by stakeholders in the course of this inquiry. The chapter commences by examining stakeholders' views for and against the proposal to ban mulesing on 1 January 2022, including arguments around animal welfare concerns and the viability of alternatives proposed in place of mulesing, as well as effects on the industry and market. The chapter concludes with consideration of the bill's proposal to make the administration of pain relief mandatory for certain stock procedures.

Ban on mulesing

2.1 As Chapter 1 sets out, mulesing refers to the surgical removal of the breech, tail, skin folds or wrinkles of a sheep and is generally undertaken to reduce the likelihood of the animal developing flystrike.

2.2 There was near unanimous agreement among inquiry participants, regardless of their position on the bill's proposed ban on mulesing, that death by flystrike was both painful and traumatic for affected sheep. According to Dr Rosemary Elliott, President, Sentient, The Veterinary Institute for Animal Ethics, who supported the ban, 'seeing a sheep lying in the final stages of flystrike is a very hard thing to watch'.[13] Likewise, Mr Stephen Crisp, Chief Executive Officer, Sheep Producers Australia, whose organisation opposed the ban, described the personal effect of losing a sheep to flystrike, stating: 'I feel it personally on our place when we lose a sheep to flystrike because you know it is a horrible death'.[14]

2.3 There was also a general consensus among inquiry participants that mulesing reduces the risk of flystrike. For example, Dr Elizabeth Arnott, Chief Veterinarian, RSPCA NSW, who called for mulesing to be ceased 'as quickly as possible', also described its purpose as 'legitimate' when compared with the 'undesirable' result of flystrike:

> … there is virtually no contention that the motivation for undertaking mulesing is legitimate to prevent flystrike. The discussions on mulesing would best be served by accepting that there is agreement that flystrike is more than undesirable in terms of animal welfare and that mulesing significantly reduces flystrike and is, therefore, a procedure undertaken with legitimate motivation.[15]

2.4 Representatives of the NSW Government, whose submission stated that it did not support the measures contained within the bill, told the committee that whilst mulesing was painful, it was a 'once-in-a-lifetime treatment option for the prevention of flystrike'.[16] When asked for his view on the practice of mulesing, Mr Scott Hansen, Director General, Department of Primary Industries, described the practice as invasive but justified because of the harm it prevents:

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13 Evidence, Dr Rosemary Elliott, President, Sentient, The Veterinary Institute for Animal Ethics, 11 August 2020, p 48.

14 Evidence, Mr Stephen Crisp, Chief Executive Officer, Sheep Producers Australia, 11 August 2020, p 24.

15 Evidence, Dr Elizabeth Arnott, Chief Veterinarian, RSPCA NSW, 11 August 2020, p 27.

16 Evidence, Mr Scott Hansen, Director General, Department of Primary Industries, 11 August 2020, p 6.

> That it is quite an invasive procedure that can only be justified on the basis of also having seen the implications of flystrike and the damage that flystrike does. That benefit justifies any invasive procedure to ensure a lifetime of protection against that risk.[17]

Arguments in favour of the ban

2.5 This section examines stakeholder arguments in favour of the bill's proposed ban on mulesing. Overall, stakeholders put forward three main justifications for proceeding with the ban: animal welfare concerns, the fact that the industry has been 'on notice' for many years about unacceptability of mulesing, and the existence of viable alternatives to the practice of mulesing.

Animal welfare concerns

2.6 For those stakeholders who supported the ban on mulesing, animal welfare concerns were a central consideration. Many stakeholders told the committee of the residual painful effects of the procedure on mulesed lambs and suggested that these had negative consequences for the welfare of the animal. For example, the committee heard that:

- 'Mulesing causes lambs intense pain for up to three days post procedure, while their wounds can take weeks to heal. They experience fear and stress, and even avoid the person who mulesed them for up to five weeks, many experiencing declines in weight gain at a time when they should be growing'.[18]
- 'Mulesing … consists of slicing flesh from the backsides of lambs. The procedure is regarded as 'painful', with 'acute pain' that is 'long lasting', and resulting in 'poor welfare both during and after the procedure'.[19]
- 'Mulesing is an act of animal cruelty and cannot be rationalised as a decision by woolgrowers about how they choose to run their businesses. Sheep are sentient beings and must be protected by the law accordingly'.[20]

2.7 Some inquiry participants who supported the ban on mulesing also rejected the argument that any pain relief administered could truly mitigate the suffering experienced by mulesed sheep. For example, Dr Elliott stated:

> Analgesia is not the answer. Why? Firstly, because it does not prevent the immediate impact of the procedure. That is barbaric. Secondly, because pain relief sometimes takes up to two hours to have any observable effect. Thirdly, once it takes effect, the duration of analgesia is shorter than the duration of pain associated with mulesing. This means it fails to reduce any enduring pain in the ensuing days. The cruelty of mulesing is not rescued by analgesia.[21]

2.8 For those inquiry participants who responded via the online questionnaire and expressed support for the bill, animal welfare was also a paramount concern. Common themes in these responses included concerns about the pain that sheep experience as a result of the procedure

17 Submission 17, NSW Farmers, p 11.

18 Submission 19, Four Paws, p 1.

19 Submission 21, Animal Defenders Office, p 2.

20 Evidence, Dr Elliott, 11 August 2020, p 43.

21 Evidence, Dr Elliott, 11 August 2020, p 43.

and the effectiveness of available pain relief.[22] Responses from online questionnaire participants on this issue included:

- 'Mulesing is a very painful procedure, yet is legal everywhere in Australia. The wool industry has long been aware of the negative animal welfare impacts of mulesing, but has failed to reform the practice or implement alternatives. Updating the law merely to require pain relief (as in Victoria) is not enough, as too hard to enforce, and the types of pain relief allowed may not be effective or long-lasting. The practice should be completely banned as the Bill proposes. The industry will cope as some wool farmers have already stopped mulesing.'
- "I support an outright ban on mulesing as requiring pain relief is a half-way measure that will fail to protect lambs and sheep. The standard products do not provide sufficient pain relief. As some farmers have already stopped using the mules procedure, a ban is the only logical solution to this significant animal welfare problem. I would support a higher penalty to reflect the seriousness of the pain inflicted on an animal by the mules procedure.'
- 'It is time that the necessary actions be taken to protect farm animal welfare, in particular the welfare of our sheep - by banning the practice of mulesing of commercially farmed sheep. It was established internationally using scientific standards that animals have a conscience and experience pain in terms which humans understand - as we experience. We cannot regard Australia to be a civilized or ethical country unless we take steps to ensure decency and morality in our farming practices.'[23]

Changing attitudes to animal welfare

2.9 A number of stakeholders referred to changing attitudes about animal welfare and the risks to the wool industry if it does not adapt to those changes:

- '[In the] 2018 Futureye report 88 per cent of people expressed concern about painful stock procedures. I know that about 91 per cent wanted regulatory change to support that, so that does suggest that there is this shift … This is not something that livestock industries have to grapple with. But I would agree that, unless they do, they are really risking their reputation and viability'.[24]
- '[Due to concerns about animal welfare] mulesing is now banned in all major wool-exporting countries – including New Zealand, South Africa, Uruguay and Argentina.'[25]

2.10 Several stakeholders spoke of the economic incentive to ceasing mulesing:

- 'Numerous major international clothing brands and retailers such as H&M, Abercrombie & Fitch, Timberland, Adidas, Icebreaker and Helly Hansen have agreed to stop producing

22 Portfolio Committee No. 4 – Industry, NSW Legislative Council, *Report on the online submission process: Inquiry into the provisions of the Prevention of Cruelty to Animals Amendment (Restrictions on Stock Animal Procedures) Bill 2019*, 28 August 2020, p 1.

23 Portfolio Committee No. 4 – Industry, NSW Legislative Council, *Report on the online submission process: Inquiry into the provisions of the Prevention of Cruelty to Animals Amendment (Restrictions on Stock Animal Procedures) Bill 2019*, 28 August 2020, p 2.

24 Evidence, Dr Arnott, 11 August 2020, p 30.

25 Submission 8, Humane Society International, p 2.

clothing with mulesed wool. An increasing number of Australian retailers are following their lead, including David Jones, Country Road Group, Kmart Group, Target, and Myer, who have all announced policies to transition away from or phase out the use of mulesed wool entirely. If Australian wool producers continue to resist this change, they risk losing significant market share as wool buyers go elsewhere.'[26]

- '"Towards a non-mulesed future" by BG Economics … surveyed 97 producers from across the country, in diverse climates and scale of enterprise. The report includes several informative statistics, including that 84.1% noted increased financial benefits since making the transition, and almost all said that the welfare of their animals had also improved.'[27]

Industry 'on notice'

2.11 Many stakeholders who raised animal welfare concerns also told the committee that the wool industry had been 'on notice' for a number of years that mulesing should be phased out. Stakeholders including Sentient - The Veterinary Institute for Animal Ethics, Animals Australia, Animal Liberation NSW, and NSW Young Lawyers made reference to the industry having made a commitment in 2004 to cease using the practice by 2010.[28] For many of these stakeholders, the industry's failed commitment to ending mulesing went against community expectations, with some also suggesting the industry had made little progress in this time.[29]

2.12 For example, based on past experience the Animal Defender's Office expressed scepticism about the industry's ability to phase out mulesing of its own accord, arguing that this was why legislative change was required:

> It must be recognised and accepted that the industry, the primary purpose of which is to generate profits from using sheep to produce wool, will not phase out a practice that producers find cheaper than alternatives.
>
> For this reason, the ADO submits that the practice should be banned by the NSW Parliament, rather than wait for industry to phase the practice out. The Australian wool industry has consistently failed to do this, even when it publicly pledged to the national and international community that it would phase the practice out by a certain date.[30]

2.13 The Animal Defenders Office contended that the new Victorian legislative requirement for mandated pain relief is recognition by a state government that the Australian wool industry cannot be relied upon to transition away from mulesing or even away from mulesing without pain relief.[31]

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26 Submission 8, Humane Society International, p 2.

27 Submission 19, Four Paws Australia, p 2.

28 Submission 24, Sentient - The Veterinary Institute for Animal, p 1; Submission 31, Animals Australia, p 6; Submission 5, Animal Liberation NSW, p 1; Submission 13, World Animal Protection, p 2; Submission 14, NSW Young Lawyers (The Law Society of New South Wales), p 4.

29 Submission 19, Four Paws Australia, p 2; Evidence, Dr Elliott, 11 August 2020, p 47.

30 Submission 21, Animal Defenders Office Inc, p 4.

31 Submission 21, Animal Defenders Office, p 5.

2.14 Similarly, PETA Australia contended that the industry's failure to act on its promise indicated it had 'no ability to self-regulate' when it came to mulesing,[32] whilst Animal Welfare Lawyers highlighted community concerns around the practice, arguing that 'mulesing is controversial, and has been for decades … represent[ing] a serious reputational risk for the Australian wool industry'.[33]

2.15 When asked by the committee how long he thought the industry had been 'on notice', Mr Hansen responded that 'we are all aware of the intense media interest on this issue since 2009-10'.[34] However, he also expressed the view that the industry had made significant progress in the area, describing the New South Wales wool industry as 'one of the most innovative industries' in the country. He stated:

> [The New South Wales wool industry has] had significant turbulence in their marketing over the last couple of decades as there have been shifts away from traditional markets, the emergence of new markets and the significant emergence of luxury blends in garments and fabrics. They have had to endure drought. They have been a very innovative industry that has really been at the cutting edge of continuing to adapt and adopt and respond to market preference, customer and community preference.[35]

Viable alternatives to mulesing

2.16 Notwithstanding some concerns about a lack of industry progress, a number of inquiry participants in favour of the ban highlighted other practices to prevent flystrike, which they suggested provide viable alternatives to mulesing.

2.17 Chief among these was the process of selective breeding, whereby the wrinkle in sheep skin that makes them prone to flystrike is bred out. Whilst there was some debate about the timeframe in which this method could provide a viable alternative to mulesing (discussed further below), several animal welfare organisations asserted that some producers had achieved successful results within two to five years. Evidence to this effect included:

- 'Through careful planning and with guidance and support, the transition towards plain-bodied Merino sheep is an achievable goal for Australian Merino woolgrowers and offers the best solution to end the need for mulesing and mitigate flystrike. We have learnt from woolgrowers who have made the transition that it can be achieved within just two to five years, even for those located in high rainfall areas'.[36]
- ' … a genetic solution [is] the most sustainable permanent solution for flystrike prevention … There are already Merino breeders in every state who have ceased mulesing after adopting the SRS (soft rolling skin) breeding system, which can be achieved within three to five years.'[37]
- 'By increasing the selection pressure – i.e. selecting for flystrike resistance traits in both ram and ewe – results can be achieved in five years. Similarly, introducing plain-bodied

32 Submission 3, PETA Australia, p 3.

33 Submission 7, Animal Welfare Lawyers, p 7.

34 Evidence, Mr Hansen, 11 August 2020, p 9.

35 Evidence, Mr Hansen, 11 August 2020, p 6.

36 Submission 8, Humane Society International, p 3.

37 Submission 24, Sentient- The Veterinary Institute for Animal Ethics, p 1.

> sires (e.g. SRS Merino) into a wrinkly flock that requires mulesing can dramatically change the requirement for mulesing within 5 years.'[38]

2.18 In this context, Humane Society International referred the committee to a report it and Four Paws Australia had commissioned from BG Economics. This report surveyed 97 producers from across the country, 'in diverse climates and scale of enterprise'.[39] As the Four Paws Australia submission states, the report found that 77.5 per cent of producers completed the transition to plain-bodied Merinos (flystrike-resistant sheep) within five years, and 42.7 per cent within two years.[40]

2.19 Given the findings from "Towards a non-mulesed future" by BG Economics, they were of the view that it would seem possible for the bill's mulesing deadline to be met or at least a minor amendment to increase the transition period slightly.[41]

2.20 The committee also received evidence about an alternative procedure to mulesing, known as 'Steining', whereby the breech of the sheep is cryogenically frozen. The creator of the process, Dr John Steinfort, Director, AgVet Innovations, described the process as 'like having a skin tumour or a wart taken off your skin'.[42]

2.21 However, the committee also heard some scepticism expressed in relation to this procedure, with Dr Jennifer Hood, Veterinary Director, Animals Australia, describing Steining as 'just another form of tissue destruction'.[43] Similar comments were made by NSW Young Lawyers in its submission, which noted:

> … the view of animal protection bodies such as the Humane Society International Australia, FOUR PAWS, and RSPCA Australia [is] that any form of sheep breech modification should be opposed in favour of breeding naturally resistant sheep.[44]

2.22 In addition, the use of insecticides and other topical treatments was also mentioned by the Animal Welfare League as being effective at preventing flies from interacting with the sheep.[45] However, other stakeholders, such as Ms Hannah Messner and the Pastoralists Association of West Darling, questioned whether such approaches were truly effective, citing a considerable amount of chemical resistance in animals.[46]

38 Submission 4, RSPCA Australia and RSPCA NSW, p 2.

39 Submission 19, Four Paws Australia, p 2.

40 Submission 19, Four Paws Australia, p 2.

41 Submission 19, Four Paws Australia, p 2.

42 Evidence, Dr John Steinfort, Director, AgVet Innovations, 11 August 2020, p 44.

43 Evidence, Dr Jennifer Hood, Veterinary Director, Animals Australia, 11 August 2020, p 41; see also Evidence, Ms Glenys Oogjes, Chief Executive, Animals Australia, 11 August 2020, p 42.

44 Submission 14, NSW Young Lawyers (The Law Society of New South Wales), p 5.

45 Submission 23, Animal Welfare League, p 2.

46 Submission 2, Ms Hannah Messner, p 1; Submission 10, Pastoralists Association of West Darling, p 1.

Arguments against the ban

2.23 Stakeholders who expressed opposition to the bill's proposal to ban mulesing on 1 January 2022 identified two key issues of concern, namely the short timeframe for the ban and the associated effect on animal welfare outcomes and the broader wool industry, and the absence of a viable alternative to prevent flystrike. These are discussed in turn below.

The short timeframe for the ban

2.24 One of the key arguments against the bill's proposed ban on mulesing was the short timeframe in which the ban is to take effect. Industry stakeholders in particular contended that the 1 January 2022 commencement date does not provide enough time for the industry to adapt and change its practices, with the potential to lead to adverse animal welfare outcomes without the existence of an alternative to mulesing. Comments from industry stakeholders included:

- '… the proposal to ban mulesing by 1 January 2022 is totally unachievable and unfeasible. This would only provide sheep producers less than 18 months to change their practices and undertake a breeding program to move toward a bare breached flock - something that is not physically possible in the given timeframe.'[47]
- '... a move to ban mulesing, especially in the short timeframe proposed in the Bill, is not realistically achievable and must not be implemented. It would diminish animal welfare outcomes, farmers would lose access to an effective flystrike mitigation tool, and they would not have sufficient time to change their management practices accordingly.'[48]
- 'We are only talking basically one mating season between now and that particular date … To have one mating season and think you are going to be shutting down the mulesing operation, with just one year ahead of us, is just unfeasible.'[49]

2.25 These concerns were echoed in the NSW Government's submission, which similarly highlighted the potential for the proposed ban to result in 'adverse animal welfare outcomes'.[50] When asked by the committee to explain what was meant in this regard, Mr Hansen responded:

> In 2022, the challenge there is can the industry actually be in a position where they have an realistic alternative tool available to it to move us from where we are at the moment to being in a position where there is no flystrike risk for sheep in New South Wales at that point in time. Using current genetic tools available to the industry a two-year period is just too short a time frame to be able to get there. You would increase your risk of flystrike, increase the risk of poor animal welfare outcomes because of flystrike and hence why no other jurisdiction [in Australia] has moved to the point of banning mulesing.[51]

47 Submission 9, Sheep Producers Australia, p 2.

48 Submission 17, NSW Farmers, p 12.

49 Evidence, Mr Sam Stephens, Chief Executive Officer, Australian Wool Growers Association, 11 August 2020, p 16.

50 Submission 17, NSW Government, p 4.

51 Evidence, Mr Hansen, 11 August 2020, p 6.

2.26 Professor Peter Windsor, Professor Emeritus, Sydney School of Veterinary Science, University of Sydney made similar comments around the likelihood of adverse animal welfare outcomes following a ban on mulesing:

> The main issue would be a much worse welfare outcome for the merino sheep in Australia. I can speak from our experience with the University of Sydney flock of 7,000 merino breeding ewes based at Marulan near Crookwell where we ceased mulesing towards the end of the previous drought in 2009.We only had one season of unmulesed sheep before we had to bring them in as hoggets and mules them because we went from basically having zero flystrike to a massive outbreak that was basically uncontrollable because of the wet summer that we had that year. That results in sheep ill and dying in large numbers on a property that normally had none.[52]

2.27 Respondents to the online questionnaire who expressed opposition to the bill, a number of whom identified as farmers, raised similar concerns about the effect a ban would have on animal welfare. For example, one respondent stated:

> I am a 4th generation merino sheep breeder in Central NSW. I do not support a ban on mulesing at any date. My family and I are passionate about animal welfare, and we firmly believe that the discomfort endured during mulesing is nothing compared to the unendurable suffering that many unmulesed sheep endure from the sheep blowfly …. Ending mulesing will result in poorer animal welfare outcomes over the life of these important animals.[53]

2.28 Another concern arising from the timeframe of the proposed ban was around the effect such a ban would have on the wool and sheep industry. For example, Dr Peter Morgan, Executive Director, Australian Council of Wool Exporters and Processors and the Private Treaty Wool Merchants of Australia, told the committee that a ban would likely force some wool producers to leave the industry:

> There would be a major exodus out of the merino industry; that is because through the reliance of chemicals in terms of if we get a wet season and away from these drought years, a lot of people will be in that horror position of chasing fly and certainly if the bill went through as is you would see a lot of producers move out of the merino industry because they just would not be able to survive.[54]

2.29 Mr Sam Stephens, Chief Executive Officer, Australian Wool Growers Association, explained that banning mulesing would require more labour because sheep would have to be checked for flystrike more regularly, putting added pressure on producers in already difficult labour market conditions:

> They might have to increase the amount of labour they have because of more regular checking of sheep or they might start to move away from wool-growing sheep to meat-producing sheep also. But there are a variety of things that a woolgrower would be

52 Evidence, Professor Peter Windsor, Professor Emeritus, Sydney School of Veterinary Science, University of Sydney, 11 August 2020, p 13.

53 Portfolio Committee No. 4 – Industry, NSW Legislative Council, *Report on the online submission process: Inquiry into the provisions of the Prevention of Cruelty to Animals Amendment (Restrictions on Stock Animal Procedures) Bill 2019*, 28 August 2020, p 3.

54 Evidence, Dr Peter Morgan, Executive Director, Australian Council of Wool Exporters and Processors (ACWEP) and the Private Treaty Wool Merchants of Australia, 11 August 2020, p 13.

> required to do and one of the consequences with this wool production is it puts pressure on people who process wool. […]
>
> 30 years ago we had station hands, we had three houses full of station hands and workers and there were 13 kids getting on a bus, just on our station alone. You look at the school runs now and the buses are all but empty. We do not have the workforce …[55]

2.30 On a related issue, the Australian Workers Union, which represents sheep shearers, highlighted the work health and safety issues involved in shearing sheep affected by flystrike:

> From our members' perspective, handling sheep full of flies and maggots creates an extremely hazardous work environment. It makes shearing unsafe. If a sheep is not mulesed, there is potential for shearers to inadvertently mules the sheep itself, because the wool is hanging off the skin at the breech, so it will create more stress for the animal.[56]

The absence of a viable alternative to prevent flystrike

2.31 Contrary to the position put forward by organisations who supported the proposed ban on mulesing, industry stakeholders expressed the strong view that there is currently no viable alternative method to prevent flystrike. For example, Mr James Jackson, President, NSW Farmers contended that 'At the moment there is clear evidence that there is not a viable alternative to this with some classes of sheep'.[57]

2.32 In particular, regarding the practice of selective breeding, while NSW Farmers questioned the efficacy of the practice,[58] other industry participants described it in a positive light.[59] Notwithstanding this, many expressed concern that 2022 was not a realistic timeframe for the practice to offer genuine protection against flystrike on a wide enough scale. Evidence received on this issue included:

- 'Genetically we have been breeding down that plainer type animal. If you go on the big picture, as far as many stud breeders … they have got a lot of time invested, dollars invested into the breeding of their type of sheep. For a lot it certainly is not achievable with their present genetics in one or two generations, it is probably more like four or five and it is a complete change of breeding structure and strategy. For others it would be 20 years.'[60]
- 'Genome targeting has some merit, however the process of evolving the entire sheep flock of NSW into a 'flystrike resistant' type of animal will take a considerable amount of time and money. It would be completely unreasonable to suggest that such a transition could take place within two years.'[61]

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55 Evidence, Mr Stephens, 11 August 2020, pp 13, 15.

56 Evidence, Mr Ron Cowdrey, NSW Vice-President and Organiser, Australian Workers' Union, 11 August 2020, p 50.

57 Evidence, Mr James Jackson, President, NSW Farmers, 11 August 2020, p 23.

58 Submission 17, NSW Farmers, p 11.

59 Submission 25, NSW Stud Merino Breeders Association, p 1; Submission 17, NSW Government, p 4; Submission 15, Australian Veterinary Association, p 1.

60 Evidence, Dr Morgan, 11 August 2020, p 16.

61 Submission 2, Ms Hannah Messner, p 2.

- 'As sheep are only 'joined' once a year, the Bill is expecting farmers to make the required genetic change in one generation. However the experience of farmers and research, both indicate that it takes far longer to fully transition to a 'non-mulesed' farming entity. It has been estimated to take 20 years of breeding for farms to even consider discontinuing mulesing.'[62]

2.33 For these reasons, Mr Stephens told the committee that the Australian Wool Growers Association would not support 'any move to ban mulesing until a viable alternative is found, nor will we support the setting of any deadline to phase out the practice',[63] a statement echoed by Ms Jo Hall, Chief Executive Officer, WoolProducers Australia.[64]

Mandatory pain relief for other stock procedures

2.34 This section explores stakeholder views on the other change proposed the Prevention of Cruelty to Animals Amendment (Restrictions on Stock Animal Procedures) Bill 2019, namely making the administration of pain relief in certain procedures involving stock animals mandatory. The committee received a significant amount of evidence on the types of pain relief available to producers. As the NSW Government submission states, currently available pain relief treatments fall into two broad categories, analgesics and anaesthetics.[65] Within available treatments, stakeholders primarily spoke of four main products: lignocaine (known as Tri-Solfen), bupivacaine, meloxicam (also known as Metacam or Buccalgesic) and numocaine (known as Numnuts), with Tri-Solfen being the main pain relief used during mulesing.[66]

Arguments in favour of making pain relief mandatory

2.35 Numerous inquiry participants, including some who opposed the ban on mulesing, argued that the administration of pain relief should be made mandatory on the basis of animal welfare concerns and in light of already high levels of voluntary administration of pain relief within the industry. These arguments are discussed below.

Animal welfare concerns

2.36 As was the case regarding the ban on mulesing, animal welfare concerns formed a central pillar of the arguments in favour of the bill's pain relief provisions. A number of stakeholders told the committee that to perform certain stock procedures without pain relief was cruel and inflicted unnecessary pain on the animal in question, and that doing so would jeopardise the industry's 'social licence'. Stakeholders' comments in this regard included:

- NSW Young Lawyers summed up the importance of animal sentience in taking a compassionate stance regarding enforcing pain relief, an argument made by many animal welfare organisations: 'The widely accepted scientific concept that animals are sentient

62 Submission 17, NSW Farmers, pp 11-12.

63 Evidence, Mr Stephens, 11 August 2020, p 12.

64 Evidence, Ms Jo Hall, Chief Executive Officer, WoolProducers Australia, 11 August 2020, p 21.

65 Submission 28, NSW Government, pp 7-8.

66 Submission 21, Animal Defenders Office, p 5.

beings by virtue of their ability to subjectively feel and perceive the world around them, and by reason of their sentient status, animals have intrinsic value'.[67]

- 'PETA also supports the Bill's inclusion of the administration of pain relief … It's beyond dispute that animals can feel pain, so to subject them to such procedures without providing them with any pain relief is barbaric. Reducing their pain, even if only partially, really is the very least that should be done'.[68]
- 'Performing painful husbandry procedures without the use of these pain relief products is now entirely unnecessary and cannot be justified using historical arguments related to accessibility and economics. These advancements must be reflected in the regulatory environment if the NSW government is to maintain its commitment to introducing modern, evidence-based animal welfare laws'.[69]
- 'There is a range of clear scientific evidence that proves animals are sentient beings with complex thoughts, feelings and emotions. They experience pain in a similar manner to humans. To minimise an animals pain and discomfort, they must be given analgesic or another form of pain relief before and after any procedure'.[70]
- '… there is increasing concern about farm animal welfare in the general community and businesses such as major international retailers are increasingly responding to such concerns. Therefore, without the improvement in animal welfare that the Bill requires, there is an increasing risk for Australian agricultural industries. Invasive procedures without pain management are a serious threat to livestock industries' social licence'.[71]

2.37 Some inquiry participants who supported the mandatory administration of pain relief suggested the bill should be broadened to cover other practices. In this regard, the submission of Animals Australia stated:

> … the Bill does not propose mandatory pain relief is used for procedures such as teeth filing in piglets, spaying cattle, and beak trimming poultry. We would prefer to see alternatives to these painful practices, and during the phase out periods, the mandatory use of effective analgesia.[72]

2.38 Animal Liberation NSW made similar comments in calling for the bill both to be clarified and expanded to cover more procedures:

> The proposed Bill should provide detailed and explicit clarification on what procedures involving farmed animals will require pain relief. As it currently stands, there is not enough information to know what will and will not require pain relief under law … all procedures must require pain relief - not only those currently contained in an unacceptably vague phrase ("certain" procedures) stated in the Bill.[73]

67 Submission 14, NSW Young Lawyers, p 6.

68 Submission 3, People for the Ethical Treatment of Animals (PETA), p 3.

69 Submission 4, RSPCA Australia and RSPCA New South Wales, p 3.

70 Submission 5, Animal Liberation NSW, p 6.

71 Submission 7, Animal Welfare Lawyers, pp 1-2.

72 Submission 31, Animals Australia, p 5.

73 Submission 5, Animal Liberation NSW, p 7.

2.39 As noted above, Animals Australia also argued for these practices to eventually be phased out entirely. These sentiments were echoed by World Animal Protection, who also stated that their support for this aspect of the bill was contingent on it forming 'part of a more extensive plan to formally phase out these painful procedures'.[74]

2.40 Finally, some stakeholders also suggested that along with being made mandatory, the administration of pain relief must be specified to occur before and after any procedure.[75]

High levels of voluntary compliance

2.41 As discussed further below, a number of industry stakeholders raised high levels of voluntary administration of pain relief by the industry as justification for opposing it being made mandatory by the bill. However, these high levels of industry compliance were also raised as an argument in support of this aspect of the bill. For example, the Australian Wool Growers Association argued that mandating pain relief for both mulesing and other stock procedures would cause little imposition to farmers:

> AWGA supports mandating the use of pain relief for mulesing and other animal husbandry procedures. It is estimated that 80% of mulesed lambs already receive pain relief in NSW, so it would be of minimal imposition that the remainder of producers be required to use such pain management for surgeries.[76]

2.42 A similar argument was made by Dr Arnott, who contended that current practice meant the regulatory impact of the bill on industry would be low:

> … providing evidence of high rates of industries voluntary willingness to comply supports the idea of legislating these provisions because to change it suggests that the regulatory impact on industry will be low and will only serve to motivate those not willing to adopt contemporary good practice without the force of the law. Legislation becomes an important way of ensuring that improved welfare becomes, and stays, the norm that is universally expected.[77]

Legislative framework for animal cruelty

2.43 According to the Animal Defenders Office, farmers who fail to provide pain relief for animals undergoing painful procedures are potentially at risk of being changed with animal cruelty offences:

> Undertaking procedures without pain relief—the defences in POCTAA par. 24(1)(a) are available only if the procedures do not cause 'unnecessary pain'. Whether pain inflicted on a farmed animal is 'unnecessary' is usually determined with reference to standard industry practices.
>
> It is standard industry practice to undertake the listed procedures without administering pain relief to the animal, thereby causing the animal considerable pain. However, because causing the animal significant pain when undertaking these procedures is

74 Submission 13, World Animal Protection, p 2.

75 Submission 5, Animal Liberation NSW, p 6; Submission 8, Humane Society International, p 3.

76 Submission 2, Australian Wool Growers Association, p 4.

77 Evidence, Dr Arnott, 11 August 2020, p 27.

> standard practice, the pain would be regarded as 'necessary' and would not constitute an animal cruelty offence….(P)pain relief is becoming increasingly affordable and available. A court may therefore view a person's failure to administer pain relief to an animal during and after the listed procedures as causing 'unnecessary' pain, because the pain could easily have been avoided by the use of pain relief. Therefore, whether or not the Bill is passed, farmers are at risk of being charged with animal cruelty for inflicting unnecessary pain on an animal when undertaking the listed procedures without pain relief.[78]

Arguments against making pain relief mandatory

2.44 The committee heard two main arguments against the bill's pain relief provisions. The first centred on potential market issues arising from restrictions in moving and selling stock due to withholding periods associated with certain anaesthetics, and the second focused on the high levels of pain relief use currently within the industry. Both arguments are explored in further detail below.

Market issues

2.45 A significant concern for industry stakeholders was the effect withholding periods associated with various anaesthetics would have on their ability to move stock as desired. As the NSW Farmers submission describes, a withholding period is the minimum period between administrating or applying a veterinary medicine, and the slaughter, collection, harvesting or use of the animal or crop commodity for human consumption.[79] Elaborating on the organisation's opposition to the bill's proposal regarding pain relief, Mr Jackson explained how export markets could be affected if producers are unable to move stock because of withholding periods:

> If you mandate or regulate pain relief for ear tagging, for instance, ear tagging in New South Wales is compulsory. You actually have to tag sheep before they are taken to the saleyards or transacted. The tags actually fall out or get ripped out. If you have to put a product on the animal or in the animal that has that withholding period of 90 days you would be putting some of the export markets at risk. Australian producers are very good at complying with these withholding periods. Essentially, it would mean that those animals that are re-tagged at the point of sale or at the point of transport would have to be separated and sent 90 days later. That is quite impractical.[80]

2.46 Similar evidence on the specific example of ear tagging was provided by a respondent to the online questionnaire, who noted:

> Pain relief for tasks such as ear tagging is not feasible. Many breeders tag their livestock with [the National Livestock Identification System] just before loading for sale. Using pain relief as part of this process means the animals will be within a withholding period and no longer eligible for target markets.[81]

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78 Submission 21, Animal Defenders Office, p 8.

79 Submission 17, NSW Farmers, p 16.

80 Evidence, Mr Jackson, 11 August 2020, p 19.

81 Portfolio Committee No. 4 – Industry, NSW Legislative Council, *Report on the online submission process: Inquiry into the provisions of the Prevention of Cruelty to Animals Amendment (Restrictions on Stock Animal Procedures) Bill 2019*, 28 August 2020, p 4.

2.47 Mr Jackson also suggested that an inability to move stock because of such withholding periods could have adverse animal welfare outcomes:

> The timeliness of marketing is a welfare issue in itself. If you have got to retain the animals on the farm to comply with the withholding period because you are compelled to use analgesic for ear tagging, holding them on the farm could, indeed, have a welfare impact in itself.[82]

2.48 The potential for adverse animal welfare outcomes, along with adverse economic impacts, was also raised by Mr Hansen:

> If the animals are being moved because of the lack of availability of feed and they are suddenly unable to be moved because of withholding periods then it does provide the potential for an adverse animal outcome as well as an adverse economic impact.[83]

2.49 The Chief Veterinarian of RSPCA NSW, Dr Arnott dismissed arguments about the potential problems for withholding periods for pain relief medications:

> Despite the use of in-feed, intramammary antibiotics, medications to modify rumins in grain-fed animals, animals still being processed for food have low antibiotic residues, and this is extensively monitored. Producers are well versed in the ideas of withholding periods and export slaughter intervals and on this basis I think that the use of these pain relieving medications—which will often be used on a single basis or very rarely or intermittently—is well within their capability to manage'.[84]

Support for industry-led, voluntary change

2.50 As noted in Chapter 1, evidence received from a number of stakeholders suggested that despite the administration of pain relief not being a legal requirement, its use is widespread specifically in the practice of mulesing.

2.51 The committee received less evidence on the levels of pain relief use in other stock procedures. However, on the issue of whether its use should be mandatory, many industry stakeholders rejected the idea of legislative change and told the committee that the industry was the best driver of change. For example, the NSW Farmers submission states:

> … livestock industries have been successful in driving the voluntary adoption of pain-relief. When considered alongside their proactive approach to other areas of animal care, such as the widespread acceptance of poll-cattle and low-stress stock handling, it is clear that the industry does not need regulation in order to improve animal welfare outcomes.

2.52 Australian Pork Limited echoed these sentiments regarding the pork industry, whilst suggesting that legislative change was unlikely to improve animal welfare:

> Australian pork producers are world-leading in their attitude to animal welfare and regularly find ways to improve their systems independently and in advance of any regulatory requirements compelling them to do so. To attempt to use broad legislative

82 Evidence, Mr Jackson, 11 August 2020, p 18.

83 Evidence, Mr Hansen, 11 August 2020, p 26.

84 Evidence, Dr Arnott, 11 August 2020, p 27.

> change as a mechanism to address perceived animal welfare concerns is unlikely to achieve animal welfare improvements from a whole of production perspective.[85]

2.53 Along similar lines, the NSW Stud Merino Breeders Association Ltd highlighted the importance of education in getting the industry to adopt pain relief across the board:

> Without any mandate, the industry has increased the use and implementation of [anaesthetic or analgesic] to over 88% alone. It is envisaged that with increased education, encouragement, and training we could get this figure to 100%. [86]

Committee comment

2.54 This is a bill which raises fundamental questions about what is in the best interests of sheep and other animals involved in stock procedures. As a committee, it's important that we acknowledge that welfare concerns are front of mind for both industry and animal welfare groups. In short, everyone involved in this debate has the best interests of the animals at heart.

2.55 What was clear in this inquiry is that there are widely differing views as to how the best interests of the animals are served. On the one hand, the industry believes that mulesing, as the most effective prevention against flystrike, must be allowed to continue if sheep flocks in New South Wales are going to be protected. On the other hand, animal welfare groups believe the practice is barbaric and believe it should be phased out as soon as possible.

2.56 The committee accepts that performed without pain relief, mulesing is a procedure that involves significant pain for sheep. However, the committee also notes that nearly all inquiry participants agreed that death by flystrike was both painful and traumatic for affected sheep. In comparison mulesing, whilst painful, is a once-in-a-lifetime procedure that is known to reduce the risk of flystrike. Having considered the evidence, the committee is not convinced that selective breeding or any other method currently offers a viable alternative to mulesing for sheep and wool producers in New South Wales. That being the case, we are of the view that banning mulesing from 2022 will result in poorer animal welfare outcomes over the life of these animals.

2.57 The committee also believes that 2022 is a completely unrealistic timeframe in which to implement the ban, and is particularly concerned about the negative impacts a ban would have on an industry already facing major challenges. Even some stakeholders who supported the ban in principle conceded that this timeframe may be too short. For these reasons, the committee does not believe that banning mulesing from 1 January 2022, as the bill proposes, is the right way forward.

2.58 Recognising the commitment that New South Wales' sheep and wool producers have to ensuring they do what's best for their stock, the committee encourages the industry to continue research and developments in the area of selective breeding, as part of developing a long-term alternative solution to flystrike.

2.59 On the bill's proposal to mandate the administration of pain relief for certain stock procedures, the committee notes that the high level of voluntary pain relief use was raised by stakeholders both for and against this aspect of the bill. The committee is inclined to respect the knowledge

85 Submission 22, Australian Pork Limited, p 2.

86 Submission 25, NSW Stud Merino Breeders Association Ltd, p 4.

and expertise of those in the industry, particularly in light of evidence describing the New South Wales' wool industry as one of the most innovative in the country. For this reason, the committee believes the industry is best placed to continue encourage its members to use anaesthetics wherever possible. On a practical level, we also find that the benefits of mandating pain relief do not outweigh the negatives industry stakeholders identified, particularly with regards to the market impacts of withholding periods.

2.60 The committee therefore recommends that the Prevention of Cruelty to Animals Amendment (Restrictions on Stock Animal Procedures) Bill 2019 not proceed in its current form.

Recommendation 1

That the Prevention of Cruelty to Animals Amendment (Restrictions on Stock Animal Procedures) Bill 2019 not proceed in its current form.

Appendix 1 Submissions

No.	Author
1	Mr Ken Jacobs
2	Australian Wool Growers Association (AWGA)
3	People for the Ethical Treatment of Animals (PETA)
4	RSPCA Australia and RSPCA New South Wales
5	Animal Liberation NSW
6	Ms Hannah Messner
7	Animal Welfare Lawyers
8	Humane Society International (HSI)
9	Sheep Producers Australia (SPA)
10	Pastoralists Association of West Darling (PAWD)
11	The Australian Association of Stud Merino Breeders (AASMB)
12	WoolProducers Australia
13	World Animal Protection
14	NSW Young Lawyers (The Law Society of New South Wales)
15	Australian Veterinary Association (AVA)
16	National Council of Wool Selling Brokers of Australia
17	NSW Farmers
18	The Australian Council of Wool Exporters and Processors (ACWEP) and the Private Treaty Wool Merchants of Australia (PTWMA)
19	FOUR PAWS Australia
20	Name suppressed
21	Animal Defenders Office Inc.
22	Australian Pork Limited
23	Animal Welfare League NSW
24	Sentient - The Veterinary Institute for Animal Ethics
25	NSW Stud Merino Breeders Association Ltd
26	Professor Peter Windsor
27	The Australian Workers' Union
28	NSW Government
29	AgVet Innovations (AVI)
30	Cattle Council of Australia
31	Animals Australia

No.	Author
32	National Farmers Federation

Appendix 2 Witnesses at hearing

Date	Name	Position and Organisation
Tuesday 11 August 2020 **Macquarie Room** **Parliament House**	Mr Scott Hansen	Director General, NSW Department of Primary Industries
	Ms Suzanne Robinson *(via teleconference)*	Director Animal Welfare, Department of Primary Industries
	Dr Peter Morgan *(via teleconference)*	Executive Director, Australian Council of Wool Exporters and Processors (ACWEP) and the Private Treaty Wool Merchants of Australia
	Prof Peter Windsor *(via teleconference)*	Professor Emeritus, Sydney School of Veterinary Science, University of Sydney
	Mr Sam Stephens *(via teleconference)*	Director, Australian Woolgrowers Association
	Mr James Jackson *(via teleconference)*	President, NSW Farmers
	Mr Stephen Crisp *(via teleconference)*	Chief Executive Officer, Sheep Producers Australia
	Ms Jo Hall *(via teleconference)*	Chief Executive Officer, WoolProducers Australia
	Dr Elizabeth Arnott	Chief Veterinarian, RSPCA NSW
	Mr Mark Slater	Chief Executive Officer, Animal Welfare League
	Ms Tara Ward	Volunteer Executive Director and Managing Solicitor, Animal Defenders Office
	Ms Glenys Oogjes *(via teleconference)*	Chief Executive Officer, Animals Australia
	Dr Jennifer Hood *(via teleconference)*	Veterinary Director, Animals Australia
	Dr Rosemary Elliott	President, Sentient, The Veterinary Institute for Animal Ethics
	Dr John Steinfort *(via teleconference)*	Director, AgVet Innovations

Date	Name	Position and Organisation
	Mr Ron Cowdrey *(via teleconference)*	NSW Vice President and Organiser, Australian Workers' Union
	Mr Nicholas Kamper *(via teleconference)*	National Economist, Australian Workers' Union

Appendix 3 Minutes

Minutes no. 23
Thursday 18 June 2020
Portfolio Committee No. 4 – Industry
Room 1136, Parliament House, Sydney at 1.35 pm

1. Members present
Mr Banasiak, *Chair*
Mr Amato
Ms Cusack
Mr Farraway
Mr Field (substituting for Ms Hurst for the water bills inquiry, until 1.52 pm)
Mr Primrose
Mr Veitch

2. Apologies
Ms Hurst

3. Correspondence
The Committee noted the following items of correspondence:

Received

- 17 June 2020 – Email from the Office of the Hon. Emma Hurst MLC, to the secretariat, advising that Mr Justin Field MLC will substitute for the duration of the inquiry into the Constitution Amendment (Water Accountability and Transparency) Bill 2020 and Water Management Amendment (Transparency of Water Rights) Bill 2020.

4. Inquiry into Constitution Amendment (Water Accountability and Transparency) Bill 2020, Water Management Amendment (Transparency of Water Rights) Bill 2020 and Water Management Amendment (Water Allocations - Drought Information) Bill 2020
The committee noted the referral on 16 June 2020 of the following terms of reference:

That:

(a) the provisions of the Constitution Amendment (Water Accountability and Transparency) Bill 2020 be referred to Portfolio Committee No. 4 – Industry for inquiry and report,

(b) the Constitution Amendment (Water Accountability and Transparency) Bill 2020 be referred to the committee upon receipt of the message from the Legislative Assembly,

(c) the Water Management Amendment (Transparency of Water Rights) Bill 2020 be referred to Portfolio Committee No. 4 – Industry for inquiry and report,

(d) the committee report by Friday 31 July 2020, and

(e) on the report being tabled a motion may be moved immediately for the first reading and printing of the Constitution Amendment (Water Accountability and Transparency) Bill 2020.

The committee noted the referral on 17 June 2020 of the following terms of reference: That the Water Management Amendment (Water Allocations—Drought Information) Bill 2020 be referred to Portfolio Committee No. 4 – Industry for inquiry and report by Friday 31 July 2020.

Resolved, on the motion of Mr Veitch: That all three bills be examined concurrently with one report, and that the terms of reference be incorporated into one, as follows:

1. That Portfolio Committee No. 4 – Industry inquire and report on:
   (a) the provisions of the Constitution Amendment (Water Accountability and Transparency) Bill 2020,

(b) the Water Management Amendment (Transparency of Water Rights) Bill 2020, and
(c) the Water Management Amendment (Water Allocations—Drought Information) Bill 2020.

2. That the committee report by Friday 31 July 2020.

4.2 Proposed timeline

Resolved, on the motion of Ms Cusack: That the committee adopt the following timeline for the administration of the inquiry:

- Sunday 5 July 2020 – closing date for submissions and online questionnaire (2 weeks)
- Monday 13 July and Tuesday 14 July – 2 hearings
- Friday 24 July – circulation of chair's draft report (Note: this will allow less than seven days to consider the chair's draft report, in variance to the sessional order)
- Wednesday 29 July – report deliberative
- Friday 31 July – report tabled.

4.3 Physically distanced hearing

Resolved, on the motion of Mr Farraway: That the committee hold a physically distanced hearing.

4.4 Submissions, online questionnaire and proformas

Resolved, on the motion of Mr Veitch:

- That the committee accept submissions from nominated stakeholders and organisations/experts in the field who apply to make a submission and are approved by the chair.
- That the committee not issue an open call for submissions through the website.
- That the committee not accept any proformas.
- That the committee conduct an online questionnaire to close on the same date as submissions.
- That the wording for the website be as follows:

  Submissions

  - Individuals are invited to submit their comments on the bill/s here [hyperlink to online questionnaire]. This is a new way for individuals to participate in inquiries and it means we will no longer accept proformas.
  - If you are an organisation or have specialist knowledge in the field and you would like to make a more detailed submission, please contact the secretariat before [submission closing date].

4.5 Online questionnaire and summary report

Resolved, on the motion of Mr Veitch: That the questions for the online questionnaire be as follows:

- What is your position on the Constitution Amendment (Water Accountability and Transparency) Bill 2020? Select one of these options: support, oppose, neutral/undecided
- What is your position on the Water Management Amendment (Transparency of Water Rights) Bill 2020? Select one of these options: support, oppose, neutral/undecided
- What is your position on the Water Management Amendment (Water Allocations—Drought Information) Bill 2020? Select one of these options: support, oppose, neutral/undecided
- In relation to the previous question, please explain your position on the bill/s (500 word text box)
- Do you have any other comments on the bill/s? (250 word text box)

Resolved, on the motion of Mr Veitch: That the secretariat prepare a summary report of responses to the online questionnaire for publication on the website and use in the report, and that:

- the committee agree to publication of the report via email, unless a member raises any concerns
- individual responses be kept confidential on tabling.

4.6 Submission invitations

Resolved, on the motion of Mr Farraway: That the following stakeholders be invited to make a submission, and members be given 24 hours to nominate additional stakeholders:

- Political parties represented in the NSW Parliament, independent members of NSW Parliament
- Minister for Water, Hon Melinda Pavey MP
- Former Water Ministers Blair, Humphries and Hodgkinson
- Department of Planning, Industry and Environment – Water
- Murray Darling Basin Authority
- National Resources Access Regulator
- Farmer/irrigator bodies – NSW Farmers' Association, NSW Irrigators Council, Namoi Water, Gwydir Valley Irrigators' Association, Border Rivers Food and Fibre, Southern Riverina Irrigators, Speak up 4 Water
- Environmental groups – Environmental Defenders Office, Inland Rivers Network, Australian Floodplain Association
- Clerks of NSW Legislative Assembly and Legislative Council
- Independent Commission Against Corruption
- Parliamentary Ethics Advisor.

4.7 Witness list

Resolved, on the motion of Mr Farraway: That the following stakeholders be invited to appear as witnesses, with consideration given to additional witnesses from among the stakeholders nominated by members:

- Political parties represented in the NSW Parliament
- Minister for Water, Hon Melinda Pavey MP
- Former Water Ministers Blair, Humphries and Hodgkinson
- Department of Planning, Industry and Environment – Water
- NSW Farmers' Association
- NSW Irrigators Council
- Speak up 4 Water.

4.8 Questions on notice and supplementary questions

Resolved, on the motion of Ms Cusack: That there be no questions taken on notice at the public hearing or supplementary questions from members.

4.9 Advertising

Resolved, on the motion of Ms Cusack: That in addition to the inquiry being advertised via social media, stakeholder emails and a media release distributed to all media outlets in New South Wales, the secretariat investigate the costs of advertising the inquiry in regional newspapers and advise the committee.

Mr Field left the meeting.

5. Inquiry into the provisions of the Prevention of Cruelty to Animals Amendment (Restrictions on Stock Animals Procedures) Bill 2019

5.1 Terms of reference

The committee noted the referral on 17 June 2020 of the following terms of reference:

That the provisions of the Prevention of Cruelty to Animals Amendment (Restrictions on Stock Animals Procedures) Bill 2019 be referred to Portfolio Committee No 4 – Industry for inquiry and report by 31 July 2020.

The committee also noted that on Thursday 18 June 2020, the House extended the reporting date to the last sitting day in September 2020.

5.2 Proposed timeline

Resolved, on the motion of Mr Veitch: That the committee adopt the following timeline for the administration of the inquiry:

- Submissions – closing 31 July (6 weeks)
- Hearings – 1 day hearing in August TBC

5.3 Physically distanced hearing
Resolved, on the motion of Mr Veitch: That the committee hold a physically distanced hearing.

5.4 Submissions, online questionnaire and proformas
Resolved, on the motion of Ms Cusack:

- That the committee accept submissions from nominated stakeholders and organisations/experts in the field who apply to make a submission and are approved by the chair.
- That the committee not issue an open call for submissions through the website.
- That the committee not accept any proformas.
- That the committee conduct an online questionnaire to close on the same date as submissions.
- That the wording for the website be as follows:

  Submissions

  - Individuals are invited to submit their comments on the bill/s here [hyperlink to online questionnaire]. This is a new way for individuals to participate in inquiries and it means we will no longer accept proformas.
  - If you are an organisation or have specialist knowledge in the field and you would like to make a more detailed submission, please contact the secretariat before [submission closing date].

5.5 Online questionnaire and summary report
Resolved, on the motion of Mr Veitch: That the questions for the online questionnaire be as follows:

- What is your position on the Prevention of Cruelty to Animals Amendment (Restrictions on Stock Animals Procedures) Bill 2019? Select one of these options: support, oppose, neutral/undecided
- In relation to the previous question, please explain your position on the bill (500 word text box)
- Do you have any other comments on the bill? (250 word text box)

Resolved, on the motion of Mr Veitch: That the secretariat prepare a summary report of responses to the online questionnaire for publication on the website and use in the report, and that:

- the committee agree to publication of the report via email, unless a member raises any concerns
- individual responses be kept confidential on tabling.

5.6 Submission invitations
Resolved, on the motion of Mr Farraway: That the secretariat circulate to members the Chair's proposed list of stakeholders to be invited to make submissions to provide members with the opportunity to amend the list or nominate additional stakeholders, and that the committee agree to the stakeholder list by email, unless a meeting of the committee is required to resolve any disagreement.

5.7 Questions on notice and supplementary questions
Resolved, on the motion of Mr Veitch: That there be no questions taken on notice at the public hearing or supplementary questions from members.

5.8 Advertising
Resolved, on the motion of Mr Farraway: That in addition to the inquiry being advertised via social media, stakeholder emails and a media release distributed to all media outlets in New South Wales, the secretariat investigate the costs of advertising the inquiry in regional newspapers and advise the committee.

6. Inquiries into the Exhibition of Exotic Animals and the Dairy Industry
Resolved, on the motion of Mr Veitch: That:

- the 23 July and potentially August 2020 hearings for the Inquiry into the Exhibition of Exotic Animals Inquiry be delayed

- the Inquiry into the Dairy Industry not be placed on the website until 10 August 2020 and the online submission portal be opened on this date.

7. Adjournment
The committee adjourned at 1.57 pm until Monday 13 July 2020.

Madeleine Foley
Committee Clerk

Minutes no. 24
Monday 13 July 2020
Portfolio Committee No. 4 – Industry
Macquarie Room, Parliament House, Sydney at 9.22 am

1. Members present
Mr Banasiak, *Chair*
Ms Cusack *(via teleconference) (until 10.54 pm, and from 11.46 am until 1.00 pm)*
Mr Farraway
Mr Field
Mr Khan
Mr Mookhey *(until 9.25 am)*
Mr Primrose

2. Election of Deputy Chair for duration of public hearings for inquiry into the water bills
The Chair called for nominations for the Deputy Chair for the duration of public hearings for the inquiry into the water bills.

Mr Mookhey moved: That the Hon Peter Primrose MLC be elected Deputy Chair.

There being no further nominations, the Chair declared Mr Primrose elected Deputy Chair for the duration of public hearings for the inquiry into the water bills.

3. Minutes
Resolved, on the motion of Mr Farraway: That draft minutes no. 23 be confirmed.

4. Correspondence
The Committee noted the following items of correspondence:

Received:

- 22 June 2020 – Email from the office of the Opposition Whip advising that the Hon Daniel Mookhey MLC will be substituting for the Hon Mick Veitch MLC for the water bills inquiry hearings on 13 and 14 July 2020
- 25 June 2020 – Email from Ms Tess Vickery for Mr Pearson advising that Hon Mark Pearson will be substituting for Hon Emma Hurst for the duration of the inquiry into the Prevention of Cruelty to Animals Amendment (Restrictions on Stock Animal Procedures) Bill 2019
- 27 June 2020 – Email from Mrs Jan Koperberg, to Chair, advising on behalf of Mr Phil Koperberg, that he is not well enough to make a contribution to the inquiry
- 30 June 2020 – Email from the Hon Niall Blair to secretariat, declining the invitation to give evidence to the inquiry
- 1 July 2020 – Email from Hon Katrina Hodgkinson to secretariat, advising she is unavailable to attend on either hearing date
- 1 July 2020 – Email from Louise Ward, Director, Animal Justice Party NSW branch to secretariat, declining invitation to give evidence to the inquiry

- 3 July 2020 – Email from Mr Chris Stone, NSW Liberal Party to secretariat, declining invitation to give evidence or make a submission to the water bills inquiry.
- 3 July 2020 – Email from Ms Cate Faehrmann, NSW Greens to secretariat, declining invitation to give evidence or make a submission
- 6 July 2020 – Email from Senada Bjelic, Shooters Fishers and Farmer Party to secretariat, declining invitation to give evidence or make a submission
- 6 July 2020 – Email from Kate Schouten, Pauline Hanson's One Nation, to secretariat, advising that One Nation will make a submission
- 6 July 2020 – Email from Courtney Dillon, NSW Farmers, to secretariat, advising NSW Farmers will not participate in a hearing but will make a submission
- 7 July 2020 – Email from Dr Emma Carmody, Environmental Defenders Office to secretariat, advising that representatives are unavailable to attend on either hearing date
- 8 July 2020 – Email from Hon Niall Blair to committee, declining second invitation to give evidence to the inquiry and reasons for declining
- 8 July 2020 – Text message from Shelley Scoullar, Speak Up Campaign, to secretariat, advising that representatives are unavailable on the hearing dates
- 9 July 2020 – Email from Mary McDermott, Administration Officer – CEO, Dubbo Regional Council to secretariat, advising that Dubbo Regional Council will not be attending the hearing on 14 July 2020
- 9 July 2020 – Letter from Hon Natasha Maclaren-Jones MLC, Government Whip to secretariat, advising that Hon Trevor Khan MLC will be substituting for Hon Lou Amato MLC for the duration of the inquiry.

Sent:

- 6 July 2020 – Letter from Chair, to Hon Niall Blair, asking that he reconsider the invitation to give evidence at a hearing
- 6 July 2020 – Letter from Chair, to the Hon Katrina Hodgkinson, asking that she reconsider the invitation to give evidence at a hearing.

5. Inquiry into the provisions of the Constitution Amendment (Water Accountability and Transparency) Bill 2020 and the provisions of the Water Management Amendment (Transparency of Water Rights) Bill 2020 and the Water Management Amendment (Water Allocations—Drought Information) Bill 2020

5.1 Public submissions

The committee noted that the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos. 1-9 and 11-15.

Resolved, on the motion of Mr Khan: That the committee authorise the publication of submission nos. 5a and 16-19.

5.2 Confidential submissions

Resolved on the motion of Mr Khan: That the committee keep submission no. 10 confidential, as per the request of the author.

5.3 Online questionnaire and summary report

The committee noted that it had previously agreed via email to reopen the online questionnaire with a new closing date of 9 July 2020.

Resolved, on the motion of Mr Primrose: That the committee authorise the publication of the online questionnaire report.

5.4 Publication of hearing footage

The committee noted that it was previously agreed via email to publish the hearing footage on the inquiry website, following the hearing.

5.5 Camera operator arrangements for committee hearings

Members noted that the new three-year funding from Treasury has enabled the Parliament to extend its existing camera operator arrangements to cover committee hearings. Since 2018 the Parliament has had the equipment necessary to operate the cameras in the Jubilee and Macquarie Rooms from the broadcast control room on Level 6, but has been unable to utilise the capacity due to funding constraints.

The new arrangements mean that the footage will now provide for a wide shot of members when questions are being asked, and then revert to a wide shot of the witness table during answers. Camera operators will make adjustments for each group of witnesses. The existing Broadcast Guidelines for the filming of committee hearings will continue to apply.

The committee secretariat present in the hearing room will continue to control the broadcast modes of 'Broadcast', 'Off', 'Deliberative' and 'In Camera'.

5.6 Declaration

Mr Khan declared a potential conflict of interest in that his wife is a part owner of a farm machinery business.

5.7 Public hearing

The committee noted that it had previously resolved that there will be no questions taken on notice or supplementary questions.

Witnesses, the public and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters. The Chair noted that members of Parliament swear an oath to their office, and therefore do not need to be sworn prior to giving evidence before a committee.

The following witness was sworn and examined via teleconference:

- The Hon Katrina Hodgkinson, former Minister for Primary Industries.

The evidence concluded and the witness withdrew.

The following witness was examined:

- Mr Clayton Barr MP, Shadow Minister for Water.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined via teleconference:

- Mr Jim Cush, Chair, NSW Irrigators' Council
- Ms Claire Miller, Interim CEO, NSW Irrigators' Council
- Ms Christine Freak, A/Policy Manager, NSW Irrigators' Council.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined via teleconference:

- Ms Maryanne Slattery, Director, Slattery and Johnson
- Mr Bill Johnson, Director, Slattery and Johnson.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined via teleconference:

- Ms Zara Lowien, Executive Officer, Gwydir Valley Irrigators Association

- Mr Joe Martin, Board Member, Namoi Water
- Mr Tony Quigley, Chairman, Macquarie River Food and Fibre.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

Mr Kevin Humphries, former Minister for Water.

Mr Humphries tendered the following documents:

Opening statement
Water in New South Wales: Regional water strategies, NSW Department of Planning, Industry and Environment.

The evidence concluded and the witness withdrew.

The public hearing concluded at 4.15 pm.

5.8 Tendered documents

Resolved on the motion of Mr Khan: That the committee accept and publish the following documents tendered during the public hearing:

- Opening statement, tendered by Mr Kevin Humphries, former Minister for Water.
- Water in New South Wales: Regional water strategies, NSW Department of Planning, Industry and Environment, tendered by Mr Kevin Humphries, former Minister for Water.

6. Adjournment

The committee adjourned at 4.22 pm until Tuesday 14 July 2020, 9.45 am, Preston Stanley Room, Parliament House (public hearing).

Merrin Thompson
Committee Clerk

Minutes no. 27

Tuesday 11 August 2020
Portfolio Committee No. 4 - Industry
Macquarie Room, Parliament House, 9.15 am

1. Members present

Mr Banasiak, *Chair*
Mr Amato *(via teleconference)*
Ms Cusack
Mr Farraway
Mr Pearson
Mr Primrose *(until 12.30 pm, from 3.27 pm)*
Mr Veitch

2. Election of Deputy Chair for the purposes of the meeting

The Chair called for nominations for a Deputy Chair for the purposes of the meeting.

Mr Farraway moved: That Mr Veitch be elected Deputy Chair.

There being no further nominations, the Chair declared Mr Veitch elected Deputy Chair for the purposes of the meeting.

3. Previous minutes

The committee noted that draft minutes no. 26 were confirmed by the committee via email.

4. Correspondence

The committee noted the following items of correspondence:

- 5 July 2020 – Email from Ms Jennifer Hotchkiss, providing commentary from Mr Allan Hotchkiss on the practice of mulesing
- 6 July 2020 – Email from Mr Ken Jacobs, sheep farmer and veterinarian, to the Chair, seeking permission to make a submission to the inquiry into the Prevention of Cruelty to Animals Amendment (Restrictions on Stock Animals Procedures) Bill 2019
- 21 July 2020 – Email from Mr Jeff Sorrell, Corporate Affairs Manager, Australian Wool Innovation, to the secretariat, declining invitation to appear as a witness at the hearing on 11 August 2020
- 22 July 2020 – Email from Ms Anastasia Smietanka, Barrister, Animal Law Institute, to the secretariat, declining invitation to appear as a witness at the hearing on 11 August 2020
- 28 July 2020 – Email from Mr Alan Shaw, Animal Welfare Lawyers, to the Chair, seeking permission to make a submission to the inquiry into the Prevention of Cruelty to Animals Amendment (Restrictions on Stock Animals Procedures) Bill 2019
- 28 July 2020 – Email from Ms Hannah Messner, Australian Wool Classer, to the Chair, seeking permission to make a submission to the inquiry into the Prevention of Cruelty to Animals Amendment (Restrictions on Stock Animals Procedures) Bill 2019
- 29 July 2020 – Email from Ms Rishika Pai, Submissions Coordinator, NSW Young Lawyers Animal Law Committee, to the secretariat, declining invitation to appear as a witness at the hearing on 11 August 2020
- 29 July 2020 – Email from Ms Megan Giannini, Executive Officer, NSW Stud Merino Breeders Association, to the Chair, seeking permission to make a submission to the inquiry into the Prevention of Cruelty to Animals Amendment (Restrictions on Stock Animals Procedures) Bill 2019
- 30 July 2020 – Email from Mr Justin Toohey, Animal Health, Welfare and Biosecurity Advisor, Cattle Council of Australia Ltd, to the Chair, seeking permission to make a submission to the inquiry into the Prevention of Cruelty to Animals Amendment (Restrictions on Stock Animals Procedures) Bill 2019
- 30 July 2020 – Email from Mr Alister Oulton, Policy Analyst, Australian Pork Limited, to the Chair, seeking permission to make a submission to the inquiry into the Prevention of Cruelty to Animals Amendment (Restrictions on Stock Animals Procedures) Bill 2019
- 31 July 2020 – Email from Ms Sally Hicks, Chief Executive Officer, The Australian Association of Stud Merino Breeders Limited, to the Chair, seeking permission to make a submission to the inquiry into the Prevention of Cruelty to Animals Amendment (Restrictions on Stock Animals Procedures) Bill 2019
- 31 July 2020 – Email from Mr Nicholas Kamper, National Economist, Australian Workers Union, to the Chair, seeking permission to make a submission to the inquiry into the Prevention of Cruelty to Animals Amendment (Restrictions on Stock Animals Procedures) Bill 2019
- 31 July 2020 – Email from Mr Matt Jackson, President, Pastoralists Association of West Darling, to the Chair, seeking permission to make a submission to the inquiry into the Prevention of Cruelty to Animals Amendment (Restrictions on Stock Animals Procedures) Bill 2019
- 31 July 2020 – Email from Mr Chris Wilcox, Executive Director, National Council of Wool Selling Brokers of Australia to the Chair, seeking permission to make a submission to the inquiry into the Prevention of Cruelty to Animals Amendment (Restrictions on Stock Animals Procedures) Bill 2019

- 31 July 2020 – Email from Mr Peter Morgan, Executive Director, Executive Director, Australian Council of Wool Exporters and Processors Private Treaty Wool Merchants of Australia to the Chair, seeking permission to make a submission to the inquiry into the Prevention of Cruelty to Animals Amendment (Restrictions on Stock Animals Procedures) Bill 2019
- 3 August 2020 – Email from Mr Graham Pratt, National Manager, Regions, Australian Veterinary Association, to the secretariat, declining invitation to appear as a witness at the hearing on 11 August 2020
- 4 August 2020 – Email from Ms Georgie Dolphin, Program Manager - Animal Welfare, Humane Society International to the secretariat attaching a new independent report titled "Towards a Non-Mulesed Future"
- 5 August 2020 - Email from the Hon Mark Pearson MLC to the committee, forwarding correspondence related to the cryogenic treatment of lambs.

Resolved, on the motion of Mr Veitch: That the committee authorise the publication of:

- correspondence from Ms Jennifer Hotchkiss, providing commentary from Mr Allan Hotchkiss on the practice of mulesing dated 5 July 2020
- the report entitled "Towards a Non-Mulesed Future" provided by Humane Society International.

5. Inquiry into the Prevention of Cruelty to Animals Amendment (Restrictions on Stock Animals Procedures) Bill 2019

5.1 Public submissions

The committee noted that the following submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submissions nos: 1-19 and 21-32.

5.2 Partially confidential submissions

Resolved, on the motion of Mr Veitch: That the committee authorise the publication of submission no. 20, with the exception of identifying information which is to remain confidential, as per the request of the author.

5.3 Online questionnaire and summary report

The committee noted that it has previously resolved to agree via email to the publication of the summary report of the responses to the online questionnaire, unless a member raises any concerns. The summary report will be circulated as soon as possible.

5.4 Request to show video footage

Resolved, on the motion of Mr Veitch: That the committee agree to the request by Dr John Steinfort to show a 30 second portion of a video about sheep freeze branding during his opening statement.

5.5 Questions on notice and supplementary questions

Resolved, on the motion of Mr Amato: That witnesses be requested to return answers to questions on notice and supplementary questions within 10 calendar days of the date on which questions are forward to the witness.

5.6 Public hearing

Witnesses and the media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witness was sworn and examined:

- Mr Scott Hansen, Director General, NSW Department of Primary Industries

The following witness was sworn and examined by teleconference:

- Ms Suzanne Robinson, Director Animal Welfare, Department of Primary Industries

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined by teleconference:

- Dr Peter Morgan, Executive Director, Australian Council of Wool Exporters and Processors (ACWEP) and the Private Treaty Wool Merchants of Australia
- Professor Peter Windsor, Professor Emeritus, Sydney School of Veterinary Science, University of Sydney
- Mr Sam Stephens, Director, Australian Woolgrowers Association

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined by teleconference:

- Mr James Jackson, President, NSW Farmers
- Mr Stephen Crisp, Chief Executive Officer, Sheep Producers Australia
- Ms Jo Hall, Chief Executive Officer, Wool Producers Australia

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Dr Elizabeth Arnott, Chief Veterinarian, RSPCA NSW

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Mark Slater, Chief Executive Officer, Animal Welfare League
- Ms Tara Ward, Volunteer Executive Director and Managing Solicitor, Animal Defenders Office

The following witnesses were sworn and examined by teleconference:

- Ms Glenys Oogjes, Chief Executive Officer, Animals Australia
- Dr Jeni Hood, Veterinary Director, Animals Australia

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Dr Rosemary Elliott, President, Sentient, The Veterinary Institute for Animal Ethics

The following witness was sworn and examined by teleconference:

- Dr John Steinfort, Director, AgVet Innovations

Dr Elliott tendered the following document:

- Report entitled 'Towards a Non-Mulesed Future'.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined by teleconference:

- Mr Ron Cowdrey, NSW Vice President and Organiser, Australian Workers' Union

- Mr Nicholas Kamper, National Economist, Australian Workers' Union

The evidence concluded and the witnesses withdrew.

The public hearing concluded at 4.45 pm.

5.7 Tendered documents

Resolved, on the motion of Mr Primrose: That the committee accept the following documents tendered during the public hearing:

- Report entitled 'Towards a Non-Mulesed Future', tendered by Dr Rosemary Elliott.

6. Adjournment

The committee adjourned at 4.48 pm, until Thursday 13 August 2020, 9.45am, Macquarie Room, Parliament House (exotic animals public hearing).

Laura Ismay
Committee Clerk

Draft minutes no. 30

Monday 21 September 2020
Portfolio Committee No. 4 – Industry
Room 814/815, 10.01am

1. Members

Mr Banasiak, *Chair*
Mr Amato (via teleconference)
Ms Cusack
Mr Farraway
Ms Hurst (until 10.07 am)
Mr Pearson (from 10.07 am)
Mr Primrose
Mr Veitch

2. Draft minutes

Resolved, on the motion of Ms Cusack: That draft minutes no. 27 be confirmed.

3. Correspondence

The committee noted the following items of correspondence:

- 31 August 2020 – Letter from Mr Scott Hansen, Director General, Department of Primary Industries, providing clarification to evidence received during the hearing on 11 August 2020.
- 4 August 2020 – Letter from Dr Joe McGirr MP, Member for Wagga Wagga, to Chair regarding the stakeholder engagement process undertaken as part of the inquiry into the provisions of the Constitution Amendment (Water Accountability and Transparency) Bill 2020, and the provisions of the Water Management Amendment (Transparency of Water Rights) Bill 2020 and the Water Management Amendment (Water Allocations – Drought Information Bill 2020.

Resolved, on the motion of Mr Veitch: That the Chair write to Dr McGirr regarding the stakeholder engagement process for the inquiry into the provisions of the Constitution Amendment (Water Accountability and Transparency) Bill 2020, and the provisions of the Water Management Amendment (Transparency of Water Rights) Bill 2020 and the Water Management Amendment (Water Allocations – Drought Information Bill 2020.

4. Inquiry into the long-term sustainability of the dairy industry in New South Wales

4.1 Submissions relating to animal welfare matters

Resolved, on the motion of Ms Hurst: That the committee treat any submissions by individuals not yet processed that relate solely to animal welfare matters as correspondence rather than being processed as submissions.

5. Inquiry into the provisions of the Prevention of Cruelty to Animals Amendment (Restrictions on Stock Animal Procedures) Bill 2019

5.1 Summary report of online questionnaire

The committee noted that it had previously agreed via email to the publication of the summary report of the responses to the online questionnaire.

5.2 Answers to questions on notice and answers to supplementary questions

Resolved, on the motion of Ms Cusack: That the committee publish the answers to supplementary questions from Dr Peter Morgan, Executive Director, Australian Council of Wool Exporters and Processors, Private Treaty Wool Merchants of Australia.

5.3 Clarification to evidence

Resolved, on the motion of Mr Farraway: That the committee publish the correspondence from Mr Scott Hansen, Director General, Department of Primary Industries dated 31 August 2020 and insert a footnote to the transcript dated 11 August 2020 reflecting his clarification of evidence.

5.4 Consideration of Chair's draft report

The Chair submitted his draft report entitled Provisions of the Prevention of Cruelty to Animals Amendment (Restrictions on Stock Animal Procedures) Bill 2019, which, having been previously circulated, was taken as being read.

Resolved, on the motion of Ms Cusack: That paragraph 1.7 be amended by omitting 'the industry in New South Wales' and inserting instead 'six states'.

Resolved, on the motion of Mr Pearson: That the following new paragraphs be inserted after paragraph 2.8:

'Changing attitudes to animal welfare

A number of stakeholders referred to changing attitudes about animal welfare and the risks to the wool industry if it does not adapt to those changes:

- '[In the] 2018 Futureye report 88 per cent of people expressed concern about painful stock procedures. I know that about 91 per cent wanted regulatory change to support that, so that does suggest that there is this shift … This is not something that livestock industries have to grapple with. But I would agree that, unless they do, they are really risking their reputation and viability'. [FOOTNOTE: Evidence, Dr Elizabeth Arnott, Chief Veterinarian, RSPCA NSW, 11 August 2020, p 30].
- '[Due to concerns about animal welfare] mulesing is now banned in all major wool-exporting countries – including New Zealand, South Africa, Uruguay and Argentina.' [FOOTNOTE: Submission 8, Humane Society International, p 2].

Several stakeholders spoke of the economic incentive to ceasing mulesing:

- 'Numerous major international clothing brands and retailers such as H&M, Abercrombie & Fitch, Timberland, Adidas, Icebreaker and Helly Hansen have agreed to stop producing clothing with mulesed wool. An increasing number of Australian retailers are following their lead, including David Jones, Country Road Group, Kmart Group, Target, and Myer, who have all announced policies to transition away from or phase out the use of mulesed wool entirely. If Australian wool producers continue to resist this change, they risk losing significant market share as wool buyers go elsewhere.' [FOOTNOTE: Submission 8, Humane Society International, p 2].
- '"Towards a non-mulesed future" by BG Economics … surveyed 97 producers from across the country, in diverse climates and scale of enterprise. The report includes several informative

> statistics, including that 84.1% noted increased financial benefits since making the transition, and almost all said that the welfare of their animals had also improved.' [FOOTNOTE: Submission 19, Four Paws Australia, p 2].

Resolved, on the motion of Mr Pearson: That the following new paragraph be inserted after paragraph 2.10:

'The Animal Defenders Office contended that the new Victorian legislative requirement for mandated pain relief is recognition by a state government that the Australian wool industry cannot be relied upon to transition away from mulesing or even away from mulesing without pain relief.' [FOOTNOTE: Submission 21, Animal Defenders Office, p 5].

Resolved, on the motion of Mr Pearson: That the following new paragraph be inserted after paragraph 2.15:

'Given the findings from "*Towards a non-mulesed future*" by BG Economics, they were of the view that it would seem possible for the bill's mulesing deadline to be met or at least a minor amendment to increase the transition period slightly.' [FOOTNOTE: Submission 19, Four Paws Australia, p 2].

Resolved, on the motion of Mr Pearson: That the following new dot point be inserted after 'Stakeholders' comments in this regard included:' in paragraph 2.32:

- 'NSW Young Lawyers summed up the importance of animal sentience in taking a compassionate stance regarding enforcing pain relief, an argument made by many animal welfare organisations: 'The widely accepted scientific concept that animals are sentient beings by virtue of their ability to subjectively feel and perceive the world around them, and by reason of their sentient status, animals have intrinsic value.' [FOOTNOTE: Submission 14, NSW Young Lawyers, p 6].

Resolved, on the motion of Mr Pearson: That the following new paragraph be inserted after paragraph 2.42:

'The Chief Veterinarian of the RSPCA, Dr Arnott dismissed arguments about the potential problems for withholding periods for pain relief medications:

> Despite the use of in-feed, intramammary antibiotics, medications to modify rumins in grain-fed animals, animals still being processed for food have low antibiotic residues, and this is extensively monitored. Producers are well versed in the ideas of withholding periods and export slaughter intervals and on this basis I think that the use of these pain relieving medications—which will often be used on a single basis or very rarely or intermittently—is well within their capability to manage'. [FOOTNOTE: Evidence, Dr Elizabeth Arnott, Chief Veterinarian, RSPCA NSW, 11 August 2020, p 27].

Resolved, on the motion of Mr Pearson: That the following new paragraph be inserted after paragraph 2.38:

'***Legislative framework for animal cruelty***

According to the Animal Defenders Office, farmers who fail to provide pain relief for animals undergoing painful procedures are potentially at risk of being changed with animal cruelty offences:

> Undertaking procedures without pain relief—the defences in POCTAA par. 24(1)(a) are available only if the procedures do not cause 'unnecessary pain'. Whether pain inflicted on a farmed animal is 'unnecessary' is usually determined with reference to standard industry practices.
>
> It is standard industry practice to undertake the listed procedures without administering pain relief to the animal, thereby causing the animal considerable pain. However, because causing the animal significant pain when undertaking these procedures is standard practice, the pain would be regarded as 'necessary' and would not constitute an animal cruelty offence….(P)pain relief is becoming increasingly affordable and available. A court may therefore view a person's failure to administer pain relief to an animal during and after the listed procedures as causing 'unnecessary' pain, because the pain could easily have been avoided by the use of pain relief. Therefore, whether or not the Bill is passed, farmers are at risk of being charged with animal cruelty for inflicting unnecessary pain on an animal when undertaking the listed procedures without pain relief.' [FOOTNOTE: Submission 21, Animal Defenders Office, p 8].

Mr Pearson moved: That paragraphs 2.48-2.54 of the committee comment be omitted, and the following new committee comments be inserted instead:

'This is a bill which raises fundamental questions about what is in the best interests of sheep and other animals involved in stock procedures. As a committee, it's important that we acknowledge that social attitudes and scientific understanding of the capacity of farmed animals to experience pain, have changed considerably since the mulesing procedure was first introduced in the 1920s. Importantly, there are now affordable and effective analgesics available that can reduce the pain of many routine animal husbandry procedures but there has not been a universal adoption of pain relief for farmed animals in the care of NSW farmers.

What was clear in this inquiry is that many wool producers have been slow or resistant to taking up the selective breeding of smooth bodied sheep, preferring mulesing, a more invasive and physically painful method of control. This is despite selective genetic breeding being a proven solution to flystrike and despite the fact that international and domestic customers are increasingly refusing mulesed wool products and with our major international wool producing competitors having outlawed the practice.

The committee accepts that mulesing is a once-in-a-lifetime procedure that is known to reduce the risk of flystrike, but mulesed sheep are still subject to flystrike in areas such as the wrinkles in the neck and back. It was also submitted that sheep blowflies are becoming resistant to flystrike pesticides. Although mulesing may be a 'one off' procedure, lambs suffer intense pain and stress for a number of days and their wounds can take weeks to heal, with lambs often losing weight and condition during this time, putting their welfare at grave risk.

On the bill's proposal to mandate the administration of pain relief for certain stock procedures, the committee notes that community standards are such that there is a high expectation that farmed animals should be provided with anaesthetics and analgesics when subjected to painful procedures. For this reason, despite and indeed because of stakeholders claims that there is a high take up of pain relief by producers, it is matter of such serious concern that there should be no ambiguity; the failure to provide pain relief is unlawful animal cruelty.

The committee therefore recommends that the Prevention of Cruelty to Animals Amendment (Restrictions on Stock Animal Procedures) Bill 2019 proceed to debate.'

Question put.

The committee divided.

Ayes: Mr Pearson.

Noes: Mr Amato, Mr Banasiak, Ms Cusack, Mr Farraway, Mr Primrose, Mr Veitch.

Question resolved in the negative.

Mr Pearson moved: That Recommendation 1 be omitted, and the following new recommendation be inserted instead:

'Recommendation 1

That the Legislative Council proceed to debate the Prevention of Cruelty to Animals Amendment (Restrictions on Stock Animal Procedures) Bill 2019'.

Question put.

The committee divided.

Ayes: Mr Pearson.

Noes: Mr Amato, Mr Banasiak, Ms Cusack, Mr Farraway, Mr Primrose, Mr Veitch.

Question resolved in the negative.

Resolved, on the motion of Mr Amato: That:

a) The draft report as amended be the report of the committee and that the committee present the report to the House;

b) The transcripts of evidence, submissions, tabled documents, answers to questions on notice, answers to supplementary questions, responses to the online questionnaire and summary report of these responses, and correspondence relating to the inquiry be tabled in the House with the report;

c) Upon tabling, all unpublished attachments to submissions be kept confidential by the committee;

d) Upon tabling, all unpublished transcripts of evidence, submissions, tabled documents, answers to questions on notice, answers to supplementary questions, responses to the online questionnaire and summary report of these responses, and correspondence relating to the inquiry, be published by the committee, except for those documents kept confidential by resolution of the committee;

e) The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;

f) The committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee;

g) Dissenting statements be provided to the secretariat by 4.00 pm, Tuesday 22 September 2020;

h) The Chair is tabling the report in the House on Thursday 24 September 2020.

6. Adjournment

The committee adjourned at 11.04 am, *sine die*.

Laura Ismay
Committee Clerk

Appendix 4 Dissenting statement

From The Hon Mark Pearson MLC, Animal Justice Party

The Animal Justice Party's Prevention of Cruelty to Animals Amendment (Restrictions on Stock Animal Procedures) Bill 2019 was drafted with the intention of aligning animal agricultural industry practices with the modern scientific understanding of animal sentience and community expectations about how we treat farmed animals, and specifically management practices such as mulesing and other routine industry procedures that are known to cause pain and suffering. The Australian wool industry has been aware for many years that our international competitors and customers are increasingly rejecting mulesing as a brutal method of flystrike control, in favour of genetic selection for smooth-bodied sheep.

The community and customers want to be confident that for as long as agriculture exploits animal bodies, farmers work to avoid painful procedures or at least provide relief where pain cannot be avoided. It is disappointing that all of my fellow committee members missed the opportunity to bring New South Wales' animal agricultural practices into the 21st century. History will one day vindicate this dissenting statement but unfortunately by then, many more animals will have suffered.

It is within the purview of this Inquiry to consider why it is necessary to remove the breech skin of lambs but not to question more generally, why body parts of farmed animals are routinely removed. Once wild animals are domesticated, subjected to selective breeding focused on maximising "product" and profit, kept in such great numbers that the ability to care for individual animals is limited, then we are constrained by the acceptance of a model of animal husbandry that factors in the cheapest and quickest 'fix' regardless of how painful, stressful, frightening, or uncomfortable that may be for the individual animal. It should be noted that I and the Animal Justice Party reject an animal welfare model that does not put animal sentience to the forefront of animal husbandry.

Social attitudes and scientific understanding of the capacity of farmed animals to experience pain have changed since mulesing was first introduced in the 1920s. This barbaric 'surgical operation' is performed on baby animals, generally between 2 and 12 weeks of age and is usually combined with tail docking and castration of males. The lambs are lain prone and constrained on metal 'cradles' while skin is cut from their breech, tails and testes cut off or rubber-ringed. How could we, as a civilised society, at the very least, not mandate the use of anesthetics and analgesics? There are now affordable and effective pharmaceutical treatments that reduce the pain of many routine procedures but there has not been universal adoption of pain relief for farmed animals in the care of NSW farmers.

Many wool producers have been slow or resistant to taking up the selective breeding of smooth-bodied sheep, preferring mulesing, despite it being an invasive and physically painful method of control. This is notwithstanding that selective genetic breeding is a proven solution to flystrike. It is remarkable that the wool industry, charged with protecting the ongoing viability of sheep farming, has failed over many decades to act decisively in banning mulesed wool from the woolclip. Not enough has been done to enforce smooth-bodied genetic selection given the fact that we are increasingly becoming a 'mulesing outlier' amongst our international competitors; New Zealand, South Africa, Uruguay, and Argentina. International and domestic clothing-makers are increasingly refusing to buy mulesed wool. International companies Hennes & Mauritz, Abercrombie & Fitch, Timberland, Adidas, Icebreaker and Helly Hansen as well as our domestic retailers David Jones, Country Road Group, Kmart Group, Target, and Myer have all announced policies to transition away from or phase out the use of mulesed wool entirely. The

Animal Justice Party is on record as wanting our agricultural economy to transition from wool to plant-based textiles, but it seems that the wool industry is on track to take itself out of business.

The committee accepted the evidence that mulesing is a once-in-a-lifetime procedure to reduce the risk of flystrike, but mulesed sheep are still subject to flystrike in areas such as the wrinkles in the neck and back. It was also submitted that sheep blowflies are becoming resistant to flystrike pesticides. Although mulesing may be a 'one off' procedure, lambs suffer intense pain and stress for a number of days and their wounds can take weeks to heal, with lambs often losing weight and condition during this time, putting their welfare at grave risk. The cited BG Economics survey noted that 84.1% of participants identified increased financial benefits from transitioning away from mulesing, and almost all said that the welfare of their animals had also improved. Accordingly, it is hard to understand what is holding back farmers from transitioning to smooth-bodied sheep.

On the bill's proposal to mandate the administration of pain relief for certain procedures, the majority of the committee was satisfied with industry stakeholders' claims that there is a high uptake of pain relief by producers, such that it is not necessary to mandate pain relief. The same question could be asked of many industries. Why bother with any regulatory regime that protects vulnerable groups if the majority are doing the right thing? The answer is: because it is important to set minimum standards to ensure that all members of the vulnerable group are protected and that poor practices are sanctioned.

Whilst the committee may be resistant to mandating pain relief, individual farmers who fail to use pain relief may be at risk from a prosecution under S.24(1)(a) of the Prevention of Cruelty to Animals Act 1979. As outlined by the Animal Defenders Office, where pain relief has become affordable and available, a court may view a farmer's failure to administer pain relief as causing 'unnecessary' pain, because the pain could easily have been avoided by the use of pain relief. The defeat of this bill will not remove the risk of farmers being charged with animal cruelty for inflicting unnecessary pain on an animal when undertaking the listed procedures without pain relief.