

**Submission
No 43**

**PREVENTION OF CRUELTY TO ANIMALS AMENDMENT (VIRTUAL STOCK
FENCING) BILL 2024**

Name: The Hon. Emma Hurst, MLC

Date Received: 16 May 2024

16 May 2024

Legislative Assembly
Committee on Investment,
Industry and Regional Development
Parliament House
Macquarie Street
Sydney NSW 2000

Submission on Inquiry into the Virtual Stock Fencing Bill

To the Chair,

Thank you for the opportunity to make a submission to the Legislative Assembly Committee on Investment, Industry and Regional Development on the *Prevention of Cruelty to Animals Amendment (Virtual Stock Fencing) Bill 2024* ('**the Bill**').

This letter outlines my general response to the terms of reference for this inquiry. In short, I strongly oppose the Bill, which raises animal welfare concerns and reverses a basic protection for already vulnerable animals. Significantly, the provisions of the Bill are irreconcilably inadequate.

Section 16 of POCTA serves a purpose

Section 16(2) of the *Prevention of Cruelty to Animals Act 1979* ('**POCTA**') currently prohibits the use of electrical devices on animals, including the possession and sale of these devices. Electrical devices are prescribed by the regulations. The Bill seeks to exclude 'virtual stock fencing devices' from the scope of 'electrical devices', and in doing so, the Bill seeks to wind back a basic protection against animal cruelty.

The term 'virtual stock fencing', as used in the title of the Bill, is euphemistic, and we recognise that the actual effect of this Bill would be to legalise the use of shock collars. This submission will therefore refer to 'shock collars' throughout, rather than the term 'virtual stock fencing' or 'virtual stock fencing device'.

If not for the Bill, the use of shock collars would remain illegal in NSW and anyone using these devices would be charged with an offence of animal cruelty. The Committee should note that animal cruelty offences are crimes in NSW, and any attempt to remove or water down criminal laws should be approached with great caution.

Shock collars are currently illegal in NSW, and for good reason. The Regulations outline electrical devices that are prohibited under section 16 of POCTA. This includes a general category of "any other device producing an electrical discharge that is used in such a way that the animal in relation to which it is being used cannot move away from the device." Animals wearing shock collars cannot move away from the device that emits shocks. It is therefore very clear that the existing framework is specifically intended to prohibit devices such as those proposed for virtual stock fencing.

POCTA currently reflects the understanding that using electrical devices in a way that may harm animals is unacceptable. The people of NSW have overwhelmingly rejected the use of aversive training methods in other industries – such as the use of shock collars for dogs – and the use of shock collars for farmed animals should be no exception. It is confusing to see a Bill that seeks to regress the State back to outmoded ways of thinking, under the guise of ‘technological advancement’.

In the simplest terms, the question before the Committee is whether or not NSW should permit animals to be ‘managed’ through the use of an inescapable aversive device, the use of which is entirely unregulated in the Bill.

Shock collars are indeed aversive, intentionally illegal, and out of step with community expectations. This is one of the rare instances where NSW law is adequately protecting animals, and it would be a step backwards to remove that protection.

Animal welfare concerns

Shock collars depend on the use of negative reinforcement training techniques. While virtual fencing is described as “invisible and somewhat intangible”, the related devices are far from invisible or intangible for the animals who are forced to wear them. Rather, the devices pose serious physical and psychological concerns, and subject animals to untested risks.

Many of these concerns are shared by RSPCA Australia, which opposes the use of virtual stock fencing devices/shock collars. The Committee should note that the Federal Government often relies on RSPCA Australia to provide advice on animal welfare. Animal welfare issues were also raised in the ‘Independent scientific literature review on animal welfare considerations for virtual fencing’, last updated in November 2023 and commissioned by the Department of Agriculture, Fisheries and Forestry (**‘DAFF Report’**), some of which are explained below.¹

Physical welfare

The complete absence of regulations or restrictions for shock collars sets a dangerous precedent.

The Bill fails to restrict the intensity or frequency of the stimulus emitted by the devices. This means that any volume, intensity or frequency of audio cue would be permitted regardless of welfare impacts, and alarmingly, that devices can emit any level of electrical charge. Claims about the electrical charge of these devices being ‘less than that of a standard electric fence’ are not reflected in the Bill.

Animal welfare implications arise where an animal may be forced to endure audio cues at a problematic volume or frequency, or where cues may startle an animal into bolting or injuring themselves. The risks of completely unregulated electrical charges for physical welfare are obvious.

It is of serious concern that animals will be unable to escape these aversive or startling cues, on account of the devices being attached to the animals themselves. This raises concerns for animals who may be stranded due to injury or obstacles, or for some reason cannot move back within a boundary line to prevent shocks. Consider a mother animal, for example, who is compelled to follow her offspring (the device manufacturers recommended collars not be worn by juvenile animals). Animals who cross a boundary might also be shocked when trying to return.

¹ [https://www.agriculture.gov.au/sites/default/files/documents/Independent scientific literature review on animal welfare considerations for virtual fencing.pdf](https://www.agriculture.gov.au/sites/default/files/documents/Independent%20scientific%20literature%20review%20on%20animal%20welfare%20considerations%20for%20virtual%20fencing.pdf)

Despite industry recommendations, the Bill is silent as to the age of animals on which such a device could be used. The Bill even fails to identify the species of animal for which devices could be used. With zero guidance or requirements, there is no guarantee that the size, shape, material, design or fit of the collars and devices to be worn by animals would be at all appropriate for animals in general, let alone for animals of specific ages, living in specific climates or with individual needs.

As described by RSPCA Australia, a real concern is the “potential irritation and/or ulceration of the skin due to the use of collars, choking on collars and equipment malfunction”.² Likewise, the DAFF Report notes the potential impacts from the weight and material of the device; pressure lesions, chafing and rubbing, which may intensify with sweat or inclement weather; and the device pinching or pulling skin/hair/wool.

Furthermore, the DAFF Report also raised the issue of growing animals being subjected to poor fitting collars and potential strangulation. Even where animals are not growing, they may be at risk of constriction or entrapment.

Psychological welfare

As explained by RSPCA Australia, an electric shock can produce an acute stress response, and “studies have found that an electric shock elicited a similar stress response to that in cattle being restrained in a crush or to sheep hearing a barking dog.”³ The DAFF Report makes similar findings, identifying that animals exposed to excessive audio cues or shocks may experience panic and agitation, and animals who do not learn are subjected to prolonged stress, especially as “the learning required is more complex than that for an electric fence”. Without visual cues, studies have reported high variation in the rates of learning by individual animals.

RSPCA Australia states that this technology “initially exposes animals to an environment of low predictability and controllability, which can lead to anxiety and stress. During the initial phase of training, animals do not know what the audio cue means, and therefore cannot avoid receiving the electric shock(s). During the learning and adaptation phase, animals may be in an aroused state and experience stress for several hours to several days until they have learnt to link the audio cue with the electric shock and understand how to respond.”

Even after learning where a boundary may be, animals will still be faced with confusion and fear when those boundaries change without warning. Changing boundary lines may leave animals in a state of chronic stress, fearing electric shocks that are administered unexpectedly.

Excessive risks

There is a complete lack of research regarding long-term impacts of this technology on animal welfare. There are also short-term variables that may impact animal welfare.

The Bill neither considers the appropriate age of animals wearing shock collars, nor provides procedures for animals who are ill, injured or unable to learn the system. The Bill fails to consider the animal welfare impacts of receiving shocks and wearing collars in inclement weather or heatwaves, and with industry workers being responsible for hundreds of individual animals, there is no guarantee that individual devices will be properly checked for fit, chaffing and function on a sufficiently regular basis.

² <https://kb.rspca.org.au/knowledge-base/what-is-virtual-fencing-or-virtual-herding-and-does-it-impact-animal-welfare/>

³ <https://kb.rspca.org.au/knowledge-base/what-is-virtual-fencing-or-virtual-herding-and-does-it-impact-animal-welfare/>

The Bill also fails to deal with potential electrical issues or faults, which are pertinent given the extreme temperature ranges and natural disasters in NSW.

There are no safeguards against misuse, nor penalties for deliberate or non-deliberate misuse. For example, animals may be deprived – either intentionally or unintentionally – of access to their offspring, herd mates, shelter, shade or fresh water, or may be prevented from escaping predators. Alternatively, animals may be over-strictly confined or sadistically shocked. It is unclear whether the usual offences for causing cruelty to an animal, which include tormenting, terrifying or infuriating an animal, would apply in these instances, or how they could possibly be monitored or enforced.

It is also claimed that the Bill will assist farmers against ‘stock theft’. The devices, however, are only a deterrent to theft if an animal can be traced, which ignores the reality of the situation where someone motivated to steal animals could remove or break the collars. More importantly, the animals will suffer electrical shocks as they are forcibly taken beyond virtual boundaries.

Wildlife

The protection of wildlife is neither the intention of the Bill, nor is it guaranteed by the Bill. The benefit to native animals has been described as a ‘valuable fringe benefit’, yet the Bill is entirely devoid of any requirements to ensure a benefit to native animals.

While the use of shock collars on farmed animals does not create an obvious detriment to wildlife, I query the practicality of expecting farmers to undertake the required labour, cost and time of removing pre-existing physical fences. Physical fencing already exists on every farm. Any costs saved in no longer having to ‘maintain’ these fences would be offset by the cost to responsibly remove these fences. Where left in place, fences still pose injury and entanglement issues for wildlife, even more so when no longer maintained, only partially removed, or left in a state of general disrepair or damage following natural disasters.

There is no evidence that there would actually be a reduction in physical fencing or obstructions. Without legal requirements to responsibly remove existing fencing, there is no reason to assume that fence-related injuries, entanglements, trappings or predation would be significantly reduced for any animals, including wildlife. Habitats transected by fencing – in whatever state of repair – and by swathes of deforested farming land will remain fragmented, and will continue to obstruct natural animal populations and migration routes.

There are a number of alternative measures that would offer a real benefit for wildlife. By way of example, these include removing barbed wire and prohibiting the use of barbed wire; requiring all properties to provide vegetated corridors or ‘shelterbelts’ for wildlife; prioritising rewilding and reduction in habitat fragmentation; requiring the provision and protection of permanent nesting and foraging habitat; restricting the use of chemicals and preventing effluent runoff; and, relying on natural features for fencing such as rocks, plants or topography of the land.

Natural disaster preparedness

The main use of shock collars is for daily animal management, not natural disasters. The measures provided in the Bill are entirely and irreparably inadequate to ensure any animals would be able to escape in the case of natural disasters. In fact, if not turned off in the case of a sudden disaster, it could cause more stress for animals attempting to escape but who are receiving electric shocks as they attempt to do so. Further, as noted above, it seems unlikely that many properties would remove

existing fences given the large expense of doing so, meaning animals would have the same entrapment issues in disasters as they currently do.

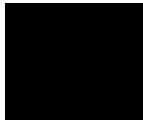
This is not a solution for animals in disasters. Instead, New South Wales desperately needs a mechanism to deal with natural disasters for all animals, including those living in traditional fenced properties.

I support and encourage the use of technology to prevent, prepare for, alert and mitigate the impact of natural disasters, but note that this is not achieved by the Bill. Rather, this should be in the form of thorough and mandatory disaster preparedness plans, including swift evacuation that prioritises animal survival and wellbeing over business or other interests, regardless of the method of herding or fencing used on a property.

For these reasons, virtual stock fencing by way of shock collars should remain illegal in NSW.

I welcome further discussion, in the form of meetings or hearings during the inquiry.

Yours sincerely



Emma Hurst
Animal Justice Party

A Parliament House, Macquarie Street, SYDNEY NSW 2000

P 02 9230 3462

E emma.hurst@parliament.nsw.gov.au

www.emmahurstmp.com

 [instagram.com/emma.hurst](https://www.instagram.com/emma.hurst)

 [facebook.com/EmmaHurstMP](https://www.facebook.com/EmmaHurstMP)

 twitter.com/mlchurst

