

**Submission
No 50**

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

Organisation: The University of Adelaide

Date Received: 17 May 2024

17 May 2024

Legislative Assembly Committee on Investment, Industry and Regional Development

Environmental and Natural Resources Law Research Unit
Adelaide Law School
Faculty of Arts, Business, Law and Economics
University of Adelaide 5005

Dear Mr Butler

Submission in relation to the *Prevention of Cruelty to Animals Amendment (Virtual Stock Fencing) Bill 2024*.

Thank you for this opportunity to provide a submission in relation to the *Prevention of Cruelty to Animals Amendment (Virtual Stock Fencing) Bill 2024*. We make this submission as members of the Environmental and Natural Resources Law Research Unit (ENREL) at the Adelaide Law School, University of Adelaide.

The Environmental and Natural Resources Law Research Unit brings together a diverse range of scholars working on issues of law and policy relating to the environment, land use planning, heritage protection, human rights, sustainability, climate change, and energy and natural resources. The Unit is actively engaged in research and advocacy on cutting-edge issues for the effective and equitable management of natural resources and environments in Australia.

In summary, we make the following **recommendation**: ENREL does not support the proposed amendment to the *Prevention of Cruelty to Animals 1979* (NSW) ('the Act'). The potential benefits of the proposed change are not currently sufficient in the context of the risks and concerns raised. We recommend that virtual stock fencing not be legalised without further studies into the long-term impact on the animals and without further codification of regulations to govern the use of the technology.

We set out our written submission and recommendations in the pages that follow.

Yours sincerely



Dr Alex Wawryk, Director, ENREL, Adelaide Law School, University of Adelaide



Authors

This submission was written by Frankie Bray on behalf of the members of ENREL.

Members of ENREL

Prof Paul Babie
Ms Marie Beillevert
Ms Frankie Bray
Dr Kerry Brent
Prof Peter Burdon
Mr Nate Camatta
Ms Margaret Castles
Ms Maya Clarke
Mr Michael Doherty
Adjunct Prof Robert Fowler
Mr Paul Leadbeter
Ms Emma Lush
Dr Phillipa McCormack
Mr Finn McIntyre
Ms Rachel Neef
Assoc Prof Beth Nosworthy
Dr Kellie Toole
Dr Alex Wawryk
Ms Claire Williams

In Summary

The Environmental and Natural Resources Law Research Unit (ENREL) does not support the proposed amendment to the *Prevention of Cruelty to Animals 1979* (NSW) (‘the Act’). The potential benefits of the proposed change are not currently sufficient in the context of the risks and concerns raised. We recommend that virtual stock fencing not be legalised without further studies into the long-term impact on the animals and without further codification of regulations to govern the use of the technology.

Context

The Legislative Assembly Committee on Investment, Industry and Regional Development (‘the Committee’) has called for submissions from the public in relation to the *Prevention of Cruelty to Animals Amendment (Virtual Stock Fencing) Bill 2024* (‘the Bill’). In particular, the Committee wants to know “*what impact [virtual fencing] would have on animal welfare, biosecurity and community safety*” and about the “*benefits, risks and unintended consequences raised by the Bill*”.¹ In this submission we address the impact on animal welfare, the risks raised by the Bill and the unintended potential consequences for the environment.

Animal welfare

The arguments in favour of amending the Act to allow the use of virtual stock fencing centre around several assertions that are made about the technology. One such assertion is that the electric shock administered by the collars is significantly less powerful than a shock from an electric fence. It is unclear how many farmers in NSW utilise electric fencing and therefore this argument has little weight. It is further asserted that implementing this new technology would benefit farmers by reducing the risk of farming accidents, which sometimes occur when moving ‘stock’ with traditional methods. There is no evidence given to support this assertion. It also fails to take into account the risk of harm to the animals, which is discussed further below.

The collars used for virtual stock fencing, while variable, appear both weighty and bulky. This raises concerns that they may be uncomfortable for the animals to wear. If the weight is significant, this introduces a risk of long-term strain on the animal’s neck. Some models have a chain around the animal’s neck, which has the potential to get caught on branches, or other collars, which creates a risk of choking or other injury. There is also a risk that the device will cause irritation, blistering and/or infection on the skin. There does not appear to have been any findings as to whether long-term wear of such devices will cause back or neck pain or other injuries.

In addition to concerns about the collars themselves, the RSPCA has raised concerns about the use of an electric shock² and the lack of research regarding the long-term impacts on animal welfare. Electric shock “*has been shown to produce an acute stress response in*

¹ Legislative Assembly Committee on Investment, Industry and Regional Development (NSW), ‘Inquiry announcement and call for submissions: Should virtual stock fencing be legal in NSW?’ (Media Release, 28 March 2024) <<https://www.parliament.nsw.gov.au/ladocs/other/19335/Media%20release%20-%20Start%20of%20inquiry%20-%2028%20March%202024.pdf>>

² RSPCA, *What is virtual fencing (or virtual herding) and does it impact animal welfare?* (Web Page) <<https://kb.rspca.org.au/knowledge-base/what-is-virtual-fencing-or-virtual-herding-and-does-it-impact-animal-welfare/>>

animals”.³ The research referenced by the RSPCA indicates that animals subject to virtual fencing are essentially guaranteed to suffer from uncertainty and stress - at a minimum, for a period after implementation and after each boundary change. This means that the ease with which farmers would be able to change their boundaries, which is touted as a major advantage of this technology, is actually increasing the harm to the animals. Further, as cows and other stock animals, like humans, are individuals - they will have different capacities for learning and will not all adapt to the virtual fencing at the same rate. This adds to the difficulty in assessing the extent of the risk to animals subjected to this technology.

Risks

There is a risk that the implementation of virtual stock fencing will have a detrimental impact on animal welfare whilst failing to achieve the increased utility and reduced cost which it is claimed to offer. Mr Donato claims that legalising this technology will reduce costs for farmers because they will no longer require traditional fencing. However, the implementation cost of virtual stock fencing may be relatively high and not accessible to all farmers. There is also serious concern about what would happen where the system has a fault. Should the virtual fence “go down” - as technology is sometimes wont to do - there is a risk that animals will wander into dangerous environments such as roads or rivers. This also creates a risk for humans. To create a fail-safe, it is reasonable to expect that many farmers will likely maintain their traditional fence line as well as utilising virtual stock fencing, which clearly negates any benefits of economy.

Environmental consequences

Animal agriculture is an often underrepresented factor in the continuing deterioration of our environment. Any change to legislation impacting the operation of animal agriculture must consider the environmental impact.

In his second reading speech, Mr Philip Donato refers to this amendment as “*a change that has the potential to revolutionise the agricultural landscape of our State and support our farmers in advancing livestock farming, in keeping with the twenty-first century.*”⁴ He further claims that the benefits of embracing this new technology will extend from farmers to “*our economy and our environment*”. There is, however, no evidence of how this legislative amendment will benefit our environment. Indeed, Mr Donato fails to address the impact that livestock farming has on the environment in any capacity.

Submission

The Bill provides for a relatively small amendment to the Act, exempting virtual stock fencing devices from the s 16 prohibition on electrical devices and inserting a definition of ‘virtual stock fencing device’. The amendment does not provide for the regulation of the devices or their use in the Act, nor does it require or foreshadow any amendments to the *Prevention of Cruelty to Animals Regulation 2012* (NSW) (‘the Regulations’). The explanatory materials, particularly the Committee Terms of Reference and Mr Donato’s second reading speech, do

³ Ibid.

⁴ New South Wales, *Parliamentary Debates*, Legislative Assembly, 8 February 2024, 2 (Philip Donato)
<<https://www.parliament.nsw.gov.au/Hansard/Pages/HansardResult.aspx#/docid/HANSARD-1323879322-138770>>

not give any indication that any such regulation has been or is likely to be considered. They also do not make any attempt to reconcile the Bill with the objects of the Act.

Mr Donato suggested in his speech that had virtual stock fencing devices been invented prior to the commencement of the Act in 1979, such devices would have been exempt from s 16 at its inception.⁵ Given the studies into the impact of electric shock on animals and the stress they have been observed to suffer as a result,⁶ it is difficult to reconcile an exemption from the prohibition on electrical devices with the objects of the Act, which are:

(a) to prevent cruelty to animals, and
(b) to promote the welfare of animals by requiring a person in charge of an animal—

- (i) to provide care for the animal, and
- (ii) to treat the animal in a humane manner, and
- (iii) to ensure the welfare of the animal...⁷

The amendment suggested by the Legislative Assembly on 14 March 2024 recommends including a subsection in the definition of ‘virtual stock fencing device’ which requires that it complies with “*relevant standards published by Standards Australia from time to time, and requirements published by the Secretary from time to time*”.⁸ Whilst this is a step in the right direction, it does not go far enough.

Matters which ought to be addressed in the Act or, failing that, in the Regulations include, but are not limited to:

1. Strength and duration of electric shock allowed to be administered to animals wearing a virtual stock fencing collar;
2. Frequency of changes to virtual fence lines noting that any such change will necessarily result in shocks being applied to animals while they learn the new boundaries;
3. Restriction on the use of collars on animals known to be deaf or have other disabilities who will be unable to hear the warning audio before receiving a shock; and
4. Capacity for independent auditing to take place on farms utilising virtual stock fencing.

Conclusion

The Bill fails to adequately consider the impact of the proposed amendment on animal welfare and the environment. It has failed to comprehensively address the potential risks and consequences that may arise from the legalisation of virtual stock fencing, which consists primarily of electrical devices in the form of collars.

The use of electrical devices on animals is in direct contravention of the objects of the Act and is not aligned with evolving public sentiment about the treatment of animals in Australia.

⁵ Above n 4.

⁶ Lee C, Colditz IG, Campbell DL, ‘A framework to assess the impact of new animal management technologies on welfare: A case study of virtual fencing’ (2018) *Frontiers in Veterinary Science* 5:187; Lee C, Campbell DLM ‘A multi-disciplinary approach to assess the welfare impacts of a new virtual fencing technology’ (2021) *Frontiers in Veterinary Science* 8:637709.

⁷ *Prevention of Cruelty to Animals 1979* (NSW) s 3.

⁸ New South Wales, Legislative Assembly, *Prevention of Cruelty to Animals Amendment (Virtual Stock Fencing) Bill 2024* Proposed amendment, 14 March 2024 <<https://www.parliament.nsw.gov.au/bill/files/18518/GOV%20-%20c2024-023A.pdf>>

The promotion of animal agriculture in any capacity fails to recognise the devastating impact the industry is having on our environment and climate.

If any such amendment is to be made it should not be progressed without further (and substantial) studies conducted into potential environmental impacts and the long-term effect on animal welfare. If such studies should satisfy those concerns in future, then a more detailed amendment, including regulations, ought to be drafted for further consultation.