

DPI responses - Animal Cruelty Laws Inquiry

Due to Inquiry Secretariat Thursday 12 March

Supplementary Questions

Question	DPI response
<p>1. In reference to the question asked by Walt Secord on p15 of the transcript, is the Department aware of any biosecurity incidents caused by so-called animal activists onto agricultural land or premises?</p>	<p>All incidents of trespass on agricultural land carry an increased risk to biosecurity. Many agricultural businesses have biosecurity management plans in place, which aim to prevent, eliminate, and minimise the risk of biosecurity incidents occurring.</p> <p>From 1 August 2019, people entering areas where a biosecurity management plan applies must comply with the requirements outlined in the plan. Failure to comply with the requirements of a plan carries significant penalties, which reflect the severity of the consequences that a biosecurity incident can have for agricultural businesses, the economy, and the environment.</p>
<p>2. Can the Department explain differences of approach in companion and farmed animal matters? For example, an animal suffering in a backyard can be seized immediately, even when person not present. The Department gave evidence of conducting 50 visits to a farm to try to work with the animal keepers to ensure welfare. Why this difference in approach when the animal suffering is the same?</p>	<p>The powers of inspectors apply to all animals covered by the definition in the Act, irrespective of whether an animal is a companion animal or a stock animal.</p> <p>In cases related to stock animals in certain circumstances (as defined in Section 24O of POCTA), inspectors have additional seize and dispose powers. Part 2B of POCTA provides for a Stock Welfare Panel to be formed, and provides an avenue for stock seizure and disposal (which includes sale) without a court order.</p> <p>The Stock Welfare Panel process is an alternative approach to managing high risk stock welfare situations that focuses on providing expert advice, support and education to resolve the welfare issue be that on farm or through a reduction in stock numbers.</p>
<p>3. In evidence Mr Hansen stated:</p>	<p><u>Annual grant funding provided to RSPCA NSW:</u></p>

<p>“I should also point out that there is an annual grant that we make and we pass through but there is also other funding that is provided to the charity organisation outside of that.”</p> <p>Please provide details of the respective grants provided to AWL and RSPCA for each of the past three financial years and the purpose of each funding allocation.</p>	<p>FY 2016/17:</p> <ul style="list-style-type: none"> ● \$424,000 - Inspectorial and enforcement functions ● \$500,000 - Education centre (2015 election commitment of \$2M over 4 years) <p>FY 2017/18:</p> <ul style="list-style-type: none"> ● \$424,000 - Inspectorial and enforcement functions ● \$500,000 - Education centre (2015 election commitment of \$2M over 4 years) <p>FY 2018/19:</p> <ul style="list-style-type: none"> ● \$424,000 - Inspectorial and enforcement functions ● \$500,000 - Education centre (2015 election commitment of \$2M over 4 years) <p><u>Annual grant funding provided to AWL NSW:</u></p> <p>FY 2016/17:</p> <ul style="list-style-type: none"> ● \$75,000 - Inspectorial and enforcement functions <p>FY 2017/18:</p> <ul style="list-style-type: none"> ● \$75,000 - Inspectorial and enforcement functions <p>FY 2018/19:</p> <ul style="list-style-type: none"> ● \$75,000 - Inspectorial and enforcement functions <p><u>Additional funding</u></p> <ul style="list-style-type: none"> ● DPI is providing funding for additional inspectors of up to \$500,000 for RSPCA NSW (5 inspectors) and \$120,000 for AWL NSW (1 inspector) to 30 June 2020 to reflect the increased workload during the drought. ● Provision of training and reimbursement of costs for supporting NSW DPI as Agriculture and Animal Services Functional Area emergency management response (e.g. bushfire response). ● 2019 election commitment of \$12,000,000 to RSPCA NSW to renew and expand adoption facilities. The first instalment of \$6,000,000 was paid in December 2019, with the balance scheduled to be paid in July-August 2020.
<p>4. Was the efficiency dividend applied to the grant</p>	<p>No.</p>

<p>funding to AWL and RSPCA? If so, please list the grant and the amount of efficiency dividend?</p>	
<p>5. Would NSW DPI support additional parliamentary scrutiny of animal welfare compliance agencies? For example, annual reports tabled in parliament and scrutiny at a public parliamentary hearing in the same manners as the ICAC parliamentary oversight committee?</p>	<p>This is a matter for Parliament.</p>
<p>6. Has DPI provided funding to AWL and RSPCA for education programmes raising community awareness of animal cruelty in NSW? If so, please list the year and the amount?</p>	<p>The NSW Government provided RSPCA NSW with \$2 million for an Education Centre at Yagoona. Payments were made in the 2015/16, 2016/17, 2017/18 and 2018/19 financial years.</p> <p>In 2015/16, the NSW Government invested \$200,000 in a joint education campaign with RSPCA NSW and AWL NSW to raise awareness of the reality of puppy factories, with a website, advertisements and a social media campaign.</p>
<p>7. Does DPI field complaints about the compliance operations of AWL and RSPCA? If so, how are these complaints treated? What is DPI's role in the complaints process?</p>	<p>RSPCA NSW and AWL NSW operate their own complaints management procedures.</p> <p>If complaints are received by DPI about the enforcement of POCTA by RSPCA NSW or AWL NSW, complainants are directed to submit their complaint to the Chief Inspector of the relevant Approved Charitable Organisation (ACO). This process is set out on DPI's website at https://www.dpi.nsw.gov.au/animals-and-livestock/animal-welfare/complaints/enforcement.</p> <p>The ACOs enforcement activities are carried out in accordance with a Memorandum of Understanding with NSW DPI, which includes a requirement for a complaints management procedure.</p> <p>The ACOs are required to provide an annual report to the Minister that</p>

	includes details of the complaints received by the organisation in relation to its activities under the Act, including details as to the resolution of those complaints.
8. Does DPI have a role in managing animal welfare issues arising from pounds in NSW? If so, what is the role?	<p>NSW DPI is responsible for administering the <i>Prevention of Cruelty to Animals Act 1979</i> (POCTA), the Prevention of Cruelty to Animals Regulation 2012, and associated codes and standards.</p> <p>NSW DPI does not enforce POCTA - it is enforced by RSPCA NSW, AWL NSW, NSW Police and Greyhound Welfare and Integrity Commission inspectors.</p> <p>The POCTA Act and Regulation apply to pounds and shelters.</p>

Questions on Notice

Question	DPI response
<p>The Hon. MARK BANASIAK: Are there KPIs tied to these grants from DPI? Do you set key performance indicators when you give these grants?</p> <p>Mr HANSEN: Not key performance indicators, but there are responsibilities spelt out under both the legislation in terms of the reporting that is required, as well as in MOUs that we have both with RSPCA and Animal Welfare League it spells it out and our expectations about how they go about doing the job and how they report progress against the job.</p> <p>The Hon. MARK BANASIAK: Are you able to provide the Committee copies of those MOUs?</p>	Attached

<p>Mr HANSEN: Sure.</p>	
<p>The Hon. MARK BANASIAK: In the government submission, it talks about the ACOs having to be compliant with the Act in themselves. In that instance, the police would obviously be the principal investigator. As the principal investigator, in the last three years has there been any instances of either of the ACOs breaching the Act? What has been the result of those complaints and investigations?</p> <p>Mr WHITESIDE: I cannot speak to those. I have no knowledge of it. We will take the question on notice and it will be directed to the RSPCA. In essence, they will be aware of any complaints that have been directed towards them. I just cannot speak to it, sorry.</p>	<p>Forwarded to NSW Police to answer</p>
<p>The Hon. MATTHEW MASON-COX: Are there any issues you want to put your finger on that perhaps you have seen through your experience that should be addressed in the context?</p> <p>Mr WHITESIDE: I have touched on the body-worn video in terms of the RSPCA. In terms of Section 31 orders under POCTAA, which is an exclusion or a non-possession of animals or ownership of animals order that can be implemented from the courts. At the moment any breach of that offence is a fineable offence, about \$3,000, which I would like to review the deterrent factor in the public interest with respect that. There is difficulties in relation to investigating those matters in terms of checking on those that may be subject to orders.</p> <p>You cannot look through walls to see if they have animals and you have no right to. We can knock on the door and ask them, but to have something in</p>	<p>SWP process</p> <ol style="list-style-type: none"> 1. Initial stock welfare complaint to POCTA enforcement agency. 2. POCTA enforcement agency investigates the complaint, seeks advice from Local Land Services (LLS), provides advice to the stock owner and/or written directions may be issued under section 24N of POCTA. Multiple inspections are usually undertaken, depending on the severity and urgency of the case. If advice is followed by the stock owner, the case is not escalated to a Stock Welfare Panel (SWP). 3. If the stock owner is not willing or able to provide for the welfare of the stock and stock are in distress or at risk of distress, and the stock are depastured on rateable land, then the enforcement agency may request NSW DPI establish a SWP. 4. A SWP must include a POCTA inspector, a DPI officer and a LLS officer with expertise in animal welfare or livestock management, and a NSW Farmers' Association member if appropriate. If the LLS officer is not a veterinary practitioner then a veterinary practitioner must also be a member (note: to date all LLS representatives have been qualified veterinarians).

<p>place, to have a system where we can check on those that are subject to those orders. In terms of the stock welfare panels, there are situations we are finding now that have become quite difficult. That is under section 24. Let us just say that on the stock welfare panel, for those who are not aware, is not just a matter of setting up a stock welfare panel and then charging onto a property and seizing animals. It is a significant process to go through and it has to be signed off by the secretary.</p> <p>The Hon. MATTHEW MASON-COX: Could you provide us details of that just put that all into context?</p> <p>Mr WHITESIDE: The stock welfare panel?</p> <p>The Hon. MATTHEW MASON-COX: Yes. Not now, but to the Committee as a question on notice. The detail of the process in order to set up—</p> <p>Mr WHITESIDE: That may be best answered by the DPI. I can do that but it is quite clear within the Act from section 24, P through to Q.</p>	<ol style="list-style-type: none"> 5. The SWP inspects and reports, which may include a recommendation to issue a written official warning under section 24P of POCTA, giving directions to be followed within a prescribed timeframe. NSW DPI issues the 24P Official Warning. 6. If the directions contained in the Official Warning are not complied with and animals remain in distress or are likely to become distressed, NSW DPI may issue written authorisation for an inspector to seize and dispose (including by means of sale) of the stock, through an order under section 24Q of POCTA. 7. The enforcement agency undertakes the seizure and disposal operation. Stock are transported to sale if fit for the journey, or otherwise euthanased. 8. The enforcement agency returns the balance of proceeds of sale, minus any certified disposal costs, to the stock owner.
<p>The Hon. WALT SECORD: I would like to pose a question to Mr Christie. As part of investigations of animal cruelty, how many instances of biosecurity or food tampering would DPI be involved in investigating? Or am I directing it to the wrong person?</p> <p>Mr CHRISTIE: No. There is a number of those in both the biosecurity and food safety area. There are a number of biosecurity and food safety issues that we investigate. If there are animal welfare issues involved in those things, we involve the RSPCA the same time. I will take on notice the actual number of both of those. Happy to do so.</p>	<p>In 2018/19, the BFS Compliance & Integrity Systems team investigated 468 biosecurity complaints/reports of non-compliance. These complaints related to matters including exhibited animals, abandoned beehives, bee disease notification, nuisance bees, animals, plants and plant health certification.</p> <p>In relation to food tampering, the NSW Food Authority investigated 2,375 complaints/reports of food safety non-compliance in 2018/19. These complaints related to matters including foodborne illness, hygiene/handling, illegal operations, foreign matter (including food tampering), labelling, food quality and product composition.</p>
<p>The Hon. MATTHEW MASON-COX: Mr Whiteside,</p>	<p>Forwarded to NSW Police to answer</p>

in relation to the memorandum of understanding [MOU] you mentioned you have with the RSPCA et cetera, have you provided a copy of that to the Committee? I did not see it but would you be able to provide a copy of that to the Committee?

Mr WHITESIDE: I will take that question on notice and I will check the legalities of that but it is available, yes.