

18th September 2020

To the Portfolio Committee-4

ACA RESPONSE TO SUPPLEMENTAY QUESTIONS & ITEMS TAKEN ON NOTICE

Animal Care Australia (ACA) welcomes the opportunity to provide additional information to the Inquiry.

ACA finds it extraordinary that this Inquiry is trying to re-define wording utilised in the Terms of Reference and in its title AFTER the consultation and testimony process in an attempt to validate its continuance and an outcome. The fact the need has arisen for these questions to be asked highlights the flaws of the Inquiry.

As a consequence, any recommendations of this Inquiry (whether endorsed by the majority or minority of Inquiry members) that restrict the ability to care for or exhibit animals must be viewed with scepticism.

In reference to the three supplementary questions, ACA makes the following recommendations:

Recommendation One:

That the definition of ‘exotic’ be excluded from the Inquiry and the Inquiry should instead rely on existing definitions within NSW Animal Welfare Legislation & Standards. Any attempt to re-define the word directly invalidates all testimony provided and submitted.

Recommendation Two:

That no definition of ‘circus’ be included in the Inquiry and the Inquiry should instead rely on existing definitions within NSW Animal Welfare Legislation & Standards. Any attempt to re-define the word directly invalidates all testimony provided and submitted.

Recommendation Three:

Defining ‘welfare’ for the purpose of this Inquiry to be limited to the existing definition of ‘welfare’ within POCTAA as this is already part of NSW Legislation.

For further explanation response, please refer to the appendixes listed:

- Appendix 1: Explanation of the above three recommendations
- Appendix 2: Items ‘Taken On Notice’
- Appendix 3: Corrections to Transcript
- Appendix 4: Right of Reply to testimony provided by other witnesses

Kind regards,

Michael Donnelly
President, Animal Care Australia.

Appendix 1: Response to Supplementary Questions.

1. The Committee's terms of reference defines 'exotic animals' as 'any animal that is not native and is not a stock or companion animal.'

(a) Do you believe the term 'exotic' is satisfactory? If not, what would be a better term, and is it used in any other jurisdiction?

(b) Do you agree that this is a satisfactory definition? If not, what would be a better definition?

The term "exotic" is not satisfactory for the Terms of Reference, or for any inclusion in animal welfare legislation, given that it can be and already is perceived by the broader community as anything that anyone considers out of the normal.

In NSW (and Australia) veterinary practices use the term "Exotic" to describe and include animals such as rabbits, rats and guinea pigs, native reptiles, foreign birds and more, despite all of these species having been domestically bred as pets. This is to claim an 'exclusive' niche market.

To further complicate the use of 'exotic' the Federal Government refers to foreign birds as 'exotic' - even the common domesticated Canary is on the federal list of exotic bird species known to be in Australia. These animals are neither 'exotic' or companion animals, however they are domesticated, and have been for centuries.

ACA strongly recommends this Inquiry confines itself to the existing definitions within NSW legislation.

Prevention Of Cruelty To Animals Act includes the following definitions:

- **stock animal** means an animal which belongs to the class of animals comprising cattle, horses, sheep, goats, deer, pigs, poultry and any other species of animal prescribed for the purposes of this definition.
- **domestic animal** means an animal which is tame or which has been, or is being, sufficiently tamed to serve some purpose for the use of human beings, or which, although it neither has been nor is being nor is intended to be so tamed, is or has become in fact wholly or partly tame

The **Companion Animals Act** includes:

- **companion animal** means each of the following:
 - (a) a dog,
 - (b) a cat,
 - (c) any other animal that is prescribed by the regulations as a companion animal

Most importantly and specifically the **Standards for Exhibiting Circus in NSW** defines:

- **domestic animal** means any of the various animals which have been domesticated by humans, so as to live and breed in a tame condition.

Utilising the existing definitions then ALL animals including the monkeys, lions etc in the care of circus and the marine park are stock, companion and domesticated animals.

It would be extremely unprofessional and irresponsible for ACA to recommend any other definition than those already legislated as these definitions have been appropriately scrutinised, consulted and are recognised throughout the community and therefore define the 'community expectation' for ALL animals held within any exhibited establishment, zoo or private keeper.

ACA MUST draw into question the validity of the need to 'separate' so-called exotic animals from other animals. Isn't the intention of any government, Inquiry or review to focus on animal welfare? If the

welfare of the animals is being maintained then there is no logical or scientific reason to separate one animal out from another.

2. The Committee's terms of reference refers to 'circuses'.

(a) Do you believe the term 'circuses' is satisfactory?

(i) If so, how should it be best defined in legislation?

(ii) If not, what would be a better term, and is it used in any other jurisdiction?

(b) Some witnesses argued that the term 'circuses' could include agricultural shows, mobile petting zoos, and the supply of animals for use in film and television. Do you agree?

As was highlighted in our testimony, there is no definition of Circus in existing legislation in fact THE WORD circus is SIMPLY included within the definition of a 'mobile exhibition' WITH NO FURTHER EXPLANATION WHATSOEVER. Unless it is the intent of this Inquiry to include ALL mobile exhibitors, then for the purpose and scope of this Inquiry, there needs to be a clear agreement on what is and is not the subject of this Inquiry.

ACA is unclear (and concerned) how this can be done in retrospect as all evidence and submissions will have used their own interpretation of Circus.

An additional concern in defining a circus, is the fact entire circuses are often hired in to provide entertainment at festivals, theme parks and agricultural shows, so therefore this directly impacts more than just the 'circus'.

It would be irresponsible of ACA to separate and define one sector of mobile exhibitors when the emphasis of the Inquiry should focus on the welfare of animals regardless of who keeps those animals or where they are kept.

3. The Committee's terms of reference refers to the 'welfare' of exotic animals and cetaceans.

(a) Do you believe the term 'welfare' is satisfactory?

(i) If so, how should it be best defined in legislation?

(ii) If not, what would be a better term, and is it used in any other jurisdiction?

For the purpose of the definition of 'welfare' ACA would refer this Inquiry to our current 'Animal Welfare Policy & Position Statement'

(https://www.animalcareaustralia.org.au/wp-content/uploads/2020/08/ACA-Animal-Welfare-Policy_2020.pdf)

Protecting an animal's welfare means providing for its physical and mental needs. This includes animal care, animal husbandry, and the humane treatment of the animal.

Achieving good animal welfare relies on providing animals:

1. Freedom from hunger or thirst, by providing access to fresh water and an appropriate diet;
2. Freedom from fear and distress, through appropriate treatment and surroundings;
3. Freedom from discomfort, by providing appropriate environments in which to live;
4. Freedom from pain, injury or disease, by prevention and rapid diagnosis and treatment;
5. Freedom to express natural behaviour, by providing appropriate space, facilities, and social interactions with members of their own species.

Signs that an animal has a good state of welfare can include longevity, having low levels of disease, displaying normal behaviour, and reproducing normally.

Another common definition of 'welfare' is:

- **Welfare** means a state of wellbeing which can be compromised by such things as disease, injury, pain, stress and deprivation

Again, ACA finds it extremely unprofessional and irresponsible to attempt to re-define the term 'welfare' outside of a proper process of public & stakeholder consultation and review.

Appendix 2: Taken On Notice

Regulatory environments for circuses and for the exhibition of animals compared to New South Wales.

ACA has scrutinised the current animal welfare legislation in other States & Territories and while some States do specifically mention circus as part of their policy all appear to defer to or replicate the NSW Standards – as they are recognised as the strictest and of highest standard.

In reference to animals deemed permissible to be exhibited by circus this varies from state to state with some having different requirements in permitting animals such as rabbits or cockatoos, however generally Local Councils appear to be the ‘authority’ that permits entry into their regions. Different Councils recognise different animals as ‘exotic/wild’ which may include monkeys, lions, buffalo and camels – pending on the Council.

Appendix 3: Corrections to transcript

Animal Care Australia requests the following correction be made:

Page 35 of the transcript:

Mr DONNELLY: Yes, because, as I have pointed out, all animals around sanctuary—circus that is sitting outside western Sydney has animals. They do have the welfare right to continue breeding

Should read:

“Yes, because as I have pointed out, **Animals All Around** Sanctuary –”

Animals All Around is the name of the Sanctuary that Mr Donnelly is referring to in his statement.