

Submission  
No 28

**INQUIRY INTO PREVENTION OF CRUELTY TO ANIMALS  
AMENDMENT (RESTRICTIONS ON STOCK ANIMAL  
PROCEDURES) BILL 2019**

**Organisation:** NSW Government

**Date Received:** 5 August 2020

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**NSW Government Submission to the  
Legislative Council Portfolio  
Committee on the Prevention of  
Cruelty to Animals Amendment  
(Restrictions on Stock Animal  
Procedures) Bill 2019**

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PREPARED BY THE NSW GOVERNMENT

31 JULY 2020

## Introduction

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The NSW Government recognises the importance of safeguarding animal welfare and providing a strong and effective regulatory framework to support good animal welfare outcomes.

The *Prevention of Cruelty to Animals Act 1979* (POCTA) and its supporting Regulation, Codes, Standards and Guidelines set out the required animal welfare standards in NSW.

The Australian Animal Welfare Standards and Guidelines set out clear requirements for people responsible for livestock in a harmonised and streamlined way that improves welfare outcomes and is practical for industry to implement.

In addition to the regulatory framework, positive animal welfare outcomes are supported through industry-led investment in animal health and welfare. This includes work to find effective measures for the prevention of flystrike, alternative techniques to mulesing sheep, and the promotion of pain-relief for stock husbandry procedures.

## Prevention of Cruelty to Animals Amendment (Restrictions on Stock Procedures) Bill 2019

On 26 September 2019, Mr Mark Pearson introduced the Prevention of Cruelty to Animals Amendment (Restrictions on Stock Procedures) Bill 2019 (the Bill), which proposes to prohibit the mules procedure on sheep from 1 January 2022 and immediately require the administration of pain relief for procedures listed in s24(1)(a) of POCTA. This includes the following:

- 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,
- 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

## Current regulatory environment

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### Legislative framework

POCTA and its supporting Regulation, Codes, Standards and Guidelines set out the required animal welfare standards in NSW. All livestock are protected by POCTA. Section 24 of POCTA specifies certain husbandry procedures are not an offence if they are carried out in a manner where it causes no unnecessary pain upon the animal.

where it causes no unnecessary pain upon the animal. This includes a sheep of less than 12 months of age for the purpose of performing the mulesing operation upon the animal.

### Animal Welfare Reform

As part of the work under the NSW Animal Welfare Action Plan, the NSW Government has committed to reform the existing animal welfare legislative framework with the aim of developing a more modern regulatory system. Consultation is a key element of this process and the NSW Government is committed to ensuring that all members of industry, animal welfare groups and the community can have their say throughout the reform process.

Earlier this year, the NSW Government carried out public and targeted consultation with key stakeholders seeking feedback on issues within the existing animal welfare framework. The NSW Government is currently considering the feedback received through this process. Stakeholders will have the opportunity to provide feedback on the proposed response to the issues raised in further rounds of consultation.

### National Animal Welfare Model Codes and Standards and Guidelines

The NSW Government supports a national approach to the development and implementation of Standards and Guidelines as this is critical to not only ensure appropriate welfare outcomes for all livestock irrespective of location but ensure industry viability in NSW. Introducing animal welfare requirements above the nationally agreed Standards and Guidelines would place NSW farmers at a severe competitive disadvantage.

For example, as per the Australian Animal Welfare Standards and Guidelines for Sheep, mulesing is legal in all jurisdictions. The 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. Therefore, banning mulesing as proposed under this Bill would place NSW farmers at a competitive disadvantage relative to other jurisdictions. It also undermines the industry incentives and initiatives which are driving substantial change in the industry through breeding programs and pain minimisation research. It should also be noted that mulesing aims to reduce the longer term suffering and death of sheep in sheep. Mulesing

directly assists in the prevention of flystrike, which can be difficult to detect and usually proves fatal.

The Sheep and Cattle Standards and Guidelines also address other procedures relevant to the Bill including castration, tail docking, disbudding and dehorning, and identification such as branding, earmarking, tagging and tattooing. This includes Standards around the administration of pain relief. An overview of the Standards and Guidelines relevant to the provisions of the Bill is set out at Attachment A.

A national project is underway to convert the existing national Model Codes of Practice for the Welfare of Animals into nationally consistent Australian Animal Welfare Standards and Guidelines.

The Standards and Guidelines aim to harmonise and streamline livestock welfare legislation in Australia, ensuring that it results in improved welfare outcomes and is practical for industry to implement.

The national Model Codes of Practice and Australian Animal Welfare Standards and Guidelines relevant to the Bill include:

Australian Animal Welfare Standards and Guidelines for Sheep and for Cattle - agreed by State and Territory Governments in 2016 and came into effect in NSW on 15 December 2017.

Australian Animal Welfare Standards and Guidelines for Pigs - the process for the development of the Australian Animal Welfare Standards and Guidelines for Pigs recently commenced.

Model Code of Practice for the Welfare of Animals: The Goat – the process to convert to the Australian Animal Welfare Standards and Guidelines is yet to commence.

Model Code of Practice for the Welfare of Animals: The Farming of Deer - the process to convert to the Australian Animal Welfare Standards and Guidelines is yet to commence.

## Industry initiatives

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There is a critical and arguably more important role for non-regulatory initiatives in promoting positive animal welfare. The section below outlines a number of industry-led initiatives underway in relation to the welfare and management procedures targeted by this Bill.

### Strategies to reduce industry reliance on mulesing

Mulesing is a procedure undertaken by sheep producers on some breeds of lambs to reduce the likelihood of the animal developing flystrike. If left untreated, flystrike can be fatal. The wool industry is already taking steps to prevent flystrike and phase out the practice of mulesing. An estimated \$30 million in industry funds has been invested nationally since 2005 on a wide variety of industry research and development programs.<sup>1</sup> Research and development into genetic indicator traits for breech strike resistance now allows sheep producers to choose merino rams with increased breech strike resistance without adversely affecting critical wool productivity traits. Over the last ten years, this has led to an increasing number of properties being able to cease mulesing as the national flock shifts towards breeding sheep naturally resistant to breech flystrike.<sup>2</sup>

Improving genetic resistance to flystrike across the Australian flock is a generational project, with gains being made over the long term through selective breeding. Modelling work done by the Sheep Cooperative Research Centre indicated that 10 years of focused selection and breeding for less breech wrinkle or cover, can reduce the proportion of sheep at risk of flystrike from around 71% to around 30% of the flock.<sup>3</sup> Transitioning to a non-mulesed enterprise is complex depending on factors such as the geographical location of the farm, weather patterns, and the genetic potential of the flock. A number of genetic breeding programs will not have progressed to the point of transition, and therefore to cease mulesing within NSW by 2022 would create an increased likelihood of creating perverse animal welfare outcomes through increased flystrike.

Since July 2019, the NSW Farmers Association's policy position has been for an industry led strategy to mandate pain relief for mulesing. In taking this position, NSW Farmers Association noted that it was incumbent on industry to drive the initiative, deliver options for farmers and expand market understanding of pain relief.

Wool Producers Australia has also committed to mandating pain relief when mulesing and is proposing an industry-led initiative and audit process under the NWD to demonstrate pain relief usage. The NSW Government awaits the outcomes of these pieces of work. And continue its commitment to work with industry to promote the best in animal health and welfare to prevent flystrike

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<sup>1</sup> AWI, Flystrike R&D Update <https://www.wool.com/globalassets/wool/sheep/research-publications/welfare/flystrike-research-update/btb-june2018-flystrike-rde-update.pdf>

<sup>2</sup> CSIRO, Managing flystrike and mulesing in sheep, <https://www.csiro.au/en/Research/AF/Areas/Livestock/Managing-flystrike-and-mulesing-in-sheep>

<sup>3</sup> Flyboss, Breeding to reduce flystrike susceptibility, <http://www.flyboss.com.au/sheep-goats/breeding-and-selection/breeding-to-reduce-flystrike-susceptibility.php>

The NSW Government does not support the measures contained within this Bill. Many producers are already using anaesthetic analgesic or other alternatives to mulesing in response to market demand and premium prices. Significant progress has already been made to manage the risk of flystrike in sheep and increasingly less flocks require mulesing as a result of targeted breeding. It is also worthwhile noting that this Bill was previously considered and defeated.

The NSW Government is confident that industry is already on the right track for reducing the incidence of flystrike thus making Government intervention unwarranted, confusing and onerous.

## National Wool Declaration

In 2008, to help farmers promote their on-farm practices to consumers, the Australian Wool Exchange (AWEX) developed the National Wool Declaration (NWD). It is applicable to all breeds of sheep, allowing woolgrowers to declare their wool as either mulesed, non-mulesed, ceased mulesing, or mulesed with pain relief. The NWD is voluntary but adoption rates have increased dramatically since its introduction with the NWD adoption rate increasing from 38% in 2008 to 73% in 2019.

The 2018/19 NWD data demonstrates the industry's progress in reducing reliance on mulesing and adopting pain relief. In 2018/19, 73% of bales were accompanied by a NWD and of these:

- 14% were declared non-mulesed
- 4% were declared as ceased mulesing (on the property in the year 2018-2019)
- 38% recorded provision of pain relief at mulesing<sup>4</sup>

## Livestock Production Assurance

The Livestock Production Assurance (LPA) program is an independently audited, on-farm assurance program covering food safety, animal welfare and biosecurity. Under LPA, on-farm systems are implemented to ensure the management of livestock is consistent with the requirements of the Australian Animal Welfare Standards and Guidelines for cattle, sheep and goats.<sup>5</sup> LPA specifies that staff handling animals must receive training about the Standards and Guidelines.

## Use of pain relief for husbandry procedures

The Australian Beef Sustainability Framework is an initiative developed by industry in collaboration with stakeholders to meet the changing expectations of consumers. The Framework defines sustainable beef production and tracks performance over a series of

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<sup>4</sup> NDW Integrity Program, <https://www.wool.com/globalassets/wool/sheep/research-publications/welfare/2020-rde-update/16.-national-wool-declaration---adoption-compl...-awex.pdf>

<sup>5</sup> Integrity Systems, Animal Welfare, <https://www.integritysystems.com.au/on-farm-assurance/animal-welfare/>

indicators annually. The 2020 Australian Beef Sustainability Annual Update outlines that industry supports the use of pain relief in unavoidable procedures and aspires to 100% use of pain relief for these procedures by 2030.<sup>6</sup>

Meat and Livestock Australia (MLA) is continuing to invest in projects to identify suitable pain relief solutions for different situations. For example, in May 2017 MLA's Donor Company MDC announced it was partnering with a number of Australian research bodies through the Strategic Partnership for Animal Welfare Research, Development and Adoption. One of the projects as part of this partnership is specifically investigating topical anaesthetics and longer acting analgesics for stock procedures.

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<sup>6</sup> Australian Beef Sustainability, Annual Update, 2020, <https://www.sustainableaustralianbeef.com.au/annual-update>



## Background

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### Mulesing

As the world's largest supplier of wool, and an essential supplier of fine and superfine wool, the Australian wool industry is a valued partner for North American and European wool apparel retailers and brands. There is an increasing demand by global retail brands looking for ethically produced wool. The Australian market is also experiencing a similar trend with a number of retailers and brands making time bound commitments to stop selling products containing mulesed wool, including Kmart, Target and Country Road.

These market forces are contributing to an increasing number of producers declaring the mulesing status of their wool at the point of sale. Australian Wool Exchange (AWEX) data shows that price premiums exist for wool declared as 'non-mulesed', 'ceased mulesing' and 'mulesed with pain relief', with results varying across the different micron categories. In 2018-19, these premiums ranged from 53c/kg clean for 17-micron and 20c/kg clean for 20-micron non-mulesed Merino wool and 12c/kg clean for non-mulesed non-Merino wool.<sup>7</sup> Significant premiums also exist for wool declared as 'ceased mulesed', with more modest premiums for wool declared 'mulesed with pain relief'. The supply of wool declared as non-mulesed continues to increase slowly and as at 30 June 2019 now comprises 11% of total wool production (up from 4% in 2009).<sup>8</sup>

Flystrike accounts for lost production costs in excess of \$200 million per year for the Australian wool and sheep meat industries.<sup>9</sup> Flies are now an endemic part of the Australian environment and are the sole cause of flystrike, a condition which can quickly prove fatal. 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.

Mulesing, which is typically undertaken when lambs are less than 12 weeks of age, can offer life-long protection against flystrike.

Other preventative measures come at an annual cost and for producers with high numbers of sheep, these costs can be considerable. The costs incurred by labour, extra crutching, extra shearing costs, extra chemicals and the potential reduction in wool value due to the impact of flystrike has the capacity to decrease sheep business returns.

### Pain relief

Currently available pain relief treatments fall into two broad categories - analgesics and anaesthetics. There are many factors that are considered when deciding to use anaesthetic or analgesic products, including type of husbandry practice and method used,

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<sup>7</sup> AWEX, Non-published premiums and discounts data supplied to DPI Feb 2020.

<sup>8</sup> NewMerino, Australian non-mulesed wool supply, <https://newmerino.com.au/mulesing-statistics/>

<sup>9</sup> Managing flystrike and mulesing in sheep, <https://www.csiro.au/en/Research/AF/Areas/Livestock/Managing-flystrike-and-mulesing-in-sheep>

availability of a product to livestock producers and veterinarians, time and supervision required post-treatment and practicality and cost.

## Appendix – Standards and Guidelines

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### The Australian Animal Welfare Standards and Guidelines for Sheep state:

#### Mulesing

- A person performing mulesing must have the relevant knowledge, experience and skills, or be under the direct supervision of a person who has the relevant knowledge, experience and skills.
- Sheep less than 24 hours old or more than 12 months old must not be mulesed, and for sheep between 6 and 12 months old pain relief must be used.
- A person must not mules sheep that are 6–12 months old without using appropriate pain relief.
- A person must not mules sheep showing signs of debilitating disease, weakness or ill-thrift.
- A person mulesing sheep must only remove wool-bearing skin.
- 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.

#### Tailing and castration

- A person performing tail docking or castration must have the relevant knowledge, experience and skills, or be under the direct supervision of a person who has the relevant knowledge, experience and skills.
- A person must not tail dock sheep that are more than six months old without using appropriate pain relief and haemorrhage control for the sheep.
- A person must leave a docked tail stump of a sheep with at least one palpable free joint remaining.
- A person must not castrate or use the cryptorchid method on sheep that are more than six months old without using appropriate pain relief and haemorrhage control for the sheep.
- Tail docking and castration should be accompanied by pain relief when practical and cost-effective methods become available. Operators should seek advice on current pain minimisation strategies.

### The Australian Animal Welfare Standards and Guidelines for Cattle state:

#### Ear Marking, Ear Tagging and Branding

- A person must use the most appropriate and least painful method to identify cattle that is applicable to the jurisdiction and the production system.
- A person must not place a permanent brand on the head of cattle.

#### Castrating and Dehorning

- A person castrating or dehorning cattle must have the relevant knowledge, experience and skills, or be under the direct supervision of a person who has the relevant knowledge, experience and skills.

- A person in charge must ensure the use of appropriate pain relief when castrating cattle, unless cattle are:
  - 1) less than six months old; or
  - 2) less than 12 months old if at their first yarding and where the later age is approved in the jurisdiction.
- A person must use appropriate tools and methods to castrate cattle.
- A person in charge must ensure the use of appropriate pain relief when dehorning cattle, unless cattle are:
  - 1) less than six months old; or
  - 2) less than 12 months old if at their first yarding and where the later age is approved in the jurisdiction
- A person must consider the welfare of the calf when using caustic chemicals for disbudding the calf, and must only use it if the calf:
  - 1) is less than fourteen days old; and
  - 2) can be segregated from its mother for four hours after treatment; and
  - 3) can be kept dry for 12 hours after treatment; and
  - 4) is not wet.
- A person must use appropriate tools and methods to dehorn cattle and disbud calves.

The Animal Welfare Code of Practice - Commercial Pig Production (Pig Code) state:

Castration

- A producer must ensure that castration or vasectomy of a pig, and application to the pig of identification marks, tags or chips is carried out on a pig only by a person (including a stock-person) who is:
  - (a) a suitably qualified person; or
  - (b) acting under the direct supervision of a suitably qualified person.
- A producer must ensure that a surgical procedure to render a male pig sterile is not performed on a male pig over the age of 21 days unless the procedure is performed
  - (a) under anaesthesia; and
  - (b) by a veterinary practitioner.

The Model Code of Practice for the Welfare of Goats state:

Ear-marking, ear-tagging, branding, castration and dehorning state:

- Practices that cause pain should not be carried out on goats if painless and practical methods of husbandry can be adopted to achieve the same result.
- Castration should be carried out on kids as early as management practices allow, preferably before 12 weeks of age.
- Surgical castration without the use of anaesthesia should be confined to bucks under 12 weeks of age.
- Disbudding of kids should be by heat cautery only. The entire horn bud must be removed and the operation must be performed as soon as the bud can be located. Regrowth of horn occurs very readily, so kids should be checked two or three weeks after disbudding.
- Disbudding by means of chemicals is not recommended.
- Dehorning should only be performed under general anaesthesia or narcosis.

- Dehorning should only be performed by an experienced operator or by, or under the supervision of, a veterinary surgeon
- Ear tagging, ear marking, ear notching and ear tattooing are the preferred methods of identifying goats
- Branding by any means should not be performed

The Model Code of Practice for the Welfare of Farmed Deer state:

Ear-marking, ear-tagging or branding state:

- Practices that cause pain must not be carried out on deer if painless and practical methods of husbandry can be adopted to achieve the same result
- The preferred methods of individual identification of deer include ear tagging, ear marking and ear tattooing. Hot iron and chemical branding should not be used. Freeze branding may be used but has limited application

Further, the POCTA regulation provides that removal of the “velvet antlers” should be the responsibility of a veterinary practitioner or a person referred to in section 9 (2) (e) of the Veterinary Practice Act 2003.