

**Submission
No 75**

INQUIRY INTO ANIMAL WELFARE POLICY IN NEW SOUTH WALES

Organisation: Australian Pork Limited

Date Received: 28 February 2022



28 February 2022

The Hon. Catherine Cusack MLC
Chair, Standing Committee on State Development
Parliament House
Sydney NSW 2000

Dear Chair

Inquiry into animal welfare policy in New South Wales and the Animal Welfare Bill 2022

Australian Pork Limited (APL) welcomes the opportunity to provide a submission to the *New South Wales Animal Welfare Bill 2022* (the Bill).

APL is the peak national representative body for Australian pig producers. It is a producer owned company combining marketing, export development, research and innovation and strategic policy development to assist in securing a profitable and sustainable future for the Australian pork industry. The Australian pork industry employs more than 36,000 people in Australia and contributes \$5.3 billion in gross domestic product to the Australian economy.

Australian pork producers understand that the provision of good animal welfare results in a contented animal able to adapt to its environment. The industry invests considerably each year to research new technologies and practices to improve pig welfare and provide valuable education and training to stock people throughout Australia. This research aims to inform industry practices and the standards and regulations that underpin them.

The regulated minimum science-based animal welfare requirements for pigs are defined in the Model Code of Practice for the Welfare of Animals: Pigs (the Model Code). This document has been slated for review and replacement by the Australian Animal Welfare Standards and Guidelines: Pigs (Pig S&Gs). The Australian pig industry audits the standards and guidelines within the Model Code through the pig industry's voluntary Quality Assurance Program, APIQ[✓]®. While the Model Code enshrines the minimum welfare standards many of our producers exceed the minimum standards of care for their pigs on a daily basis.

It is encouraging to see that New South Wales Department of Primary Industries (NSW DPI) and the New South Wales Government have recognised the importance of the Australian Animal Welfare Standards and Guidelines (S&Gs). APL supports this view, however, strongly

believes the S&Gs process must be reviewed and refined to ensure the multiple frameworks currently in use are aligned into a single approach that provides a fair, equitable and consistent process for setting welfare standards. Any agreed future approach must be trusted and supported by industry, government and community to facilitate the development of future species-specific S&Gs.

APL supported the review of the current *Prevention of Cruelty to Animals Act 1979* to ensure it reflects the latest science and community expectations. However, APL considers it is important that any new changes do not create unintended negative animal welfare impacts or unnecessary regulatory burden for animal-based industries. To ensure good welfare outcomes, it is also essential that the new Act is supported by compliance and enforcement functions which are adequately resourced and delivered by appropriately skilled personnel with an understanding of the industry.

In the following table, APL have responded to the proposed sections of the Bill that relate to the Australian pork industry.

Draft Bill	APL view
<p>Part 2, Division 2, Section 7 Meaning of “act of cruelty” <i>An act of cruelty is an act or omission that results in an animal being— (a) unreasonably or unnecessarily harmed, or (b) unreasonably or unnecessarily killed, or (c) abused, beaten, infuriated, kicked, maimed, mutilated, terrified, tormented, tortured or wounded, or (d) overloaded, overworked, overdriven, overridden or overused, or (e) unreasonably or unnecessarily exposed to excessive heat or excessive cold.</i></p>	<p>The Australian pig industry currently meets the minimum standards of care outlined in the Model Code, however many of our APIQ accredited producers exceed these minimum standards daily.</p> <p>APL noted the exemptions to this definition for prescribed husbandry procedures under Part 8, Division 2, Section 119 and is encouraged to see the alignment with the <i>Biosecurity Act 2015</i>. In line with NSW DPI’s explanation¹ on this section of the draft Bill, the Australian pork industry will not be impacted by the changes to this definition provided the industry continues to meet the minimum standards of care outlined under the Model Code and APIQ[✓]®.</p> <p>APL holds some concern for the use of ‘infuriating’ and ‘terrified’ in the definition of ‘act of cruelty’. These terms are emotive and not quantifiable as there are no defined physical indicators. Additionally, these terms are not commonly used in pig production or within scientific literature.</p> <p>APL is concerned about the ability to assess these ‘emotions’ accurately, objectively and consistently. This could lead to confusion for inspectors and producers, which has the potential to inadvertently inflict negative animal welfare outcomes through misapplication and misunderstanding of pig welfare.</p>
<p>Part 2, Division 2, Section 11 Meaning of “harm” <i>Harm includes— (a) distress, and (b) pain, and (c) physical suffering, and (d) psychological suffering.</i></p>	<p>The focus for the Australian pork industry is ensuring the highest animal welfare standards backed by robust science, which in turn enables our pigs to experience a life free of hunger, thirst, pain and fear. The industry invests considerably each year to research new technologies and practices to improve pig health and welfare and provide valuable education and training to stock people throughout Australia.</p> <p>APL does not support the inclusion of psychological suffering into the definition of “harm”. The inclusion of psychological suffering is not quantifiable as it has no physical indicators, APL is concerned about the ability to assess psychological suffering accurately, objectively and consistently. This could lead to confusion for inspectors and producers, which has the potential to inadvertently inflict negative animal welfare outcomes through misapplication and misunderstanding of pig welfare.</p>

¹ https://www.dpi.nsw.gov.au/_data/assets/pdf_file/0006/1381812/NSW-Animal-Welfare-Reform-Consultation-Outcomes.pdf

<p>Part 3, Division 1 Minimum Care Requirements</p>	<p>APL supports the introduction of minimum standards for the care of animals (covering food, water, health care and appropriate shelter or accommodation), reflecting our producers' commitment to ensuring good animal welfare outcomes for the animals within their care.</p> <p>APL is encouraged to see that the NSW Department of Primary Industries and the NSW Government recognise the importance of the Australian Animal Welfare Standards and Guidelines as a national process that reflects the best available science, and that implementation will continue throughout the reform project.</p> <p>However, APL considers the S&Gs process needs strengthening and requires review and refinement, given the multiple frameworks currently in use, to ensure a fair and equitable process that is trusted and supported by industry, government and community to support the development of future species-specific S&Gs.</p>
<p>Part 4, Division 3, Section 35 Prohibition on tethering sows in piggeries <i>A person must not tether a sow in a piggery. Maximum penalty—category 3 penalty.</i></p>	<p>APL supports the inclusion of this section within the new Act. The tethering of sows within a piggery is prohibited under Section 10(2) of the old <i>Prevention of Cruelty to Animals Act 1979</i>, the Animal Welfare Code of Practice – Commercial Pig Production (NSW) and the Model Code of Practice for the Welfare of Animals: Pigs (Section 4.1.9).</p> <p>APL advocates for states and territories to implement the standards and guidelines within the Model Code of Practice for the Welfare of Pigs into their legislative framework and the prohibition of tethering of sows within a piggery is an example of how consistency reduces confusion and provides the best animal welfare outcomes.</p>
<p>Part 6, Division 4, Section 58 Constitution and procedure of stock welfare panels <i>A stock welfare panel established under section 51 consists of the following persons appointed by the Secretary—</i> <i>(a) an authorised officer,</i> <i>(b) at least one person employed in the Department who has expertise in animal welfare or stock management,</i> <i>(c) at least one representative of Local Land Services who has expertise in animal welfare or stock management,</i> <i>(d) if the Secretary considers it necessary— one person who has expertise relating to the type of stock animal in relation to which the panel is established,</i> <i>(e) any other person prescribed by the regulations for this section</i></p>	<p>A key objective of APL's Strategic Plan 2020 - 2025 is to ensure that our industry is a leader in animal care, representing our producers focus on, and commitment to, high welfare outcomes for the pigs within their care. APL and the Australian pig industry do not condone any form of cruelty inflicted on animals within our care.</p> <p>APL supports stock welfare panels provided they include representatives who have adequate pig industry and production knowledge. APL holds concern for the use of an independent panel to provide advice and recommendations on pig welfare and pork production. Often industry is not a representative of these panels, or consulted as part of decision-making, creating unintended negative welfare outcomes, and increased regulatory burden for producers. APL has observed this through both domestic S&Gs setting in other livestock sectors and international Pig S&Gs development.</p> <p>APL strongly believes that to achieve the best welfare outcomes for animals it is vital that there is a collaborative partnership between government and industry to inform a science-based approach and utilise expert opinion panels.</p> <p>Additionally, to ensure an effective, efficient, and less distressing investigation of suspected animal welfare cases, the Stock Welfare Panel must maintain adequate communication with the producer of the process and timeframes.</p> <p>Given the complexity of the pork industry supply chain it is important that any decisions made by the panel do not inadvertently create harm for the animals. The process of determining the outcomes for livestock before a welfare panel should be swift, transparent and consistent, taking into consideration all the various factors.</p>

<p>Part 7, Division 3, Section 66 Powers of authorised officers to enter non-residential premises <i>(1)(a) An authorised officer may enter premises, or a part of premises, not used for residential purposes— at any time, if the officer reasonably suspects an offence against this Act is about to be, is being or has been committed, on the premises or the part of the premises, or</i></p>	<p>Australia’s biosecurity system is fundamental to the prosperity of all Australians. In an increasingly complex global environment where international trade and travel continues to grow, biosecurity outbreaks across human, agriculture, environment and marine health continue to rise in speed, volume, and complexity. Australian pork producers recognise this heightened risk, facing the dual threat of African swine fever (ASF) and COVID-19 over the past two years.</p> <p>The Australian pork industry is complex, with a highly intensive supply chain. On-farm biosecurity is critical for preventing a disease outbreak, which could affect the health and welfare of the pigs. It is important that these new powers do not compromise the biosecurity of the production site or create unintended negative animal health or welfare impacts. This can be best achieved by ensuring a strong partnership approach between government and industry that facilitates better recognition of the pork industry supply chain and production methods.</p> <p>It is critical that the authorised officer is transparent about the process and timeframes with the producer and that they adhere to all biosecurity requirements while on the farm including cleaning their boots and a minimum 48-hour exclusion between pig and poultry farms.</p>
<p>Part 7, Division 4, Section 71 Powers of authorised officers generally to examine, inspect or observe animals <i>An authorised officer may examine, inspect or observe an animal if—</i> <i>(b) the officer reasonably suspects—</i> <i>(iii) the animal is so severely injured, so diseased or in so poor a physical or psychological condition that it is necessary for the animal to be provided with veterinary treatment and the animal is not being provided with that treatment, or</i> <i>(iv) the animal is so severely injured, so diseased or in so poor a physical or psychological condition that it is cruel to keep it alive, and the animal is not about to be destroyed or is about to be destroyed in a way that will inflict unnecessary harm on the animal.</i></p>	<p>The Australian pig industry currently meets the minimum standards of care outlined in the Model Code, but anecdotal evidence through the pig industry’s APIQ program suggests that many producers exceed the minimum standards.</p> <p>APL strongly believes that a robust scientific approach to welfare is the basis for a sustainable industry, in terms of community expectations and commercial realities. To support this the Australian pork industry invests considerably each year to research new technologies and practices to improve pig health and welfare and provide valuable education and training to stock people throughout Australia.</p> <p>APL considers that the inclusion of psychological suffering is open to interpretation, as ‘poor psychological’ condition and how to assess it are not defined within the draft Bill. Additionally, there are no specified physical indicators for psychological suffering, which leads to inconsistencies in its application and creates confusion.</p> <p>This confusion for inspectors and producers has the potential to lead to inadvertent negative animal welfare outcomes through misapplication and misunderstanding of pig welfare.</p>
<p>Part 7, Division 4, Section 72 Powers of authorised officers in relation to care of animals <i>(2) An animal or carcass to which subsection 1(a) applies may be kept by an authorised officer for a period—</i> <i>(a) of no more than 60 days, or</i> <i>(b) if, within the 60-day period, proceedings are started in relation to an offence against this Act or the regulations—until the proceedings are finally decided, unless the court otherwise directs.</i></p>	<p>The Australian pork industry is complex, with a highly intensive supply chain. A disruption to the pig supply chain can result in a negative welfare outcome. APL is concerned that, if animals are held for 60 days or longer, the flow on effects may impact animal welfare and business continuity.</p> <p>APL considers that the reports of cruelty or suspected welfare issues should be addressed quickly, to prevent ongoing welfare concerns for the animals. APL do not support any form of regulation that would allow a penalty including the sale of animals to be applied to a producer before court matters have been finalised. Any options proposed should allow for the best animal welfare outcome, which may require flexible options and arrangements dependent on the situation.</p>
<p>Part 7, Division 4, Section 72 Powers of authorised officers in relation to care of animals</p>	<p>The Australian pork industry is passionate about providing consumers with high quality and safe pork products. Most Australian pork is produced under APIQ[®], which audits pig producers against thorough food safety standards. The industry</p>

<p><i>(4)(c) if the animal is a stock animal—as soon as practicable after administering the sedative or pain relief, give the responsible person for the animal a record that the sedative or pain relief has been administered.</i></p>	<p>also has a comprehensive livestock traceability system in place – PigPass, that can rapidly trace products and take appropriate action to manage food safety.</p> <p>APL supports the inclusion of the requirement under this section for authorised officers to notify the producer (or responsible person) that a sedative or pain relief has been administered. This supports the Australian pork industry’s quality assurance program and our obligations under the Food Safety Standards Australia New Zealand (FSANZ), the National Residues Survey in line with trading partners’ withholding periods.</p> <p>APL is encouraged to see that NSW DPI have confirmed that authorised officers will be required to be trained and accredited under the <i>Poisons and Therapeutic Goods Regulation 2008</i> and the <i>Veterinary Practice Act 2003</i> and seek specific veterinary advice (via phone) where possible, before administering the sedative or pain relief. APL would seek assurance that authorised officers are also adequately trained in pig production, behaviour and handling, to ensure the safety of the pig and the handler.</p>
<p>Part 8, Division 1, Section 114 Time limit of proceedings <i>(1) Proceedings for an offence against this Act or the regulations may be started at any time but not later than the following—</i> <i>(a) 3 years after the date on which the offence is alleged to have been committed,</i> <i>(b) 3 years after the date on which evidence of the alleged offence first came to the attention of any authorised officer.</i></p>	<p>The Australian pig industry does not condone any form of cruelty inflicted on animals within our care. A key objective of APL’s Strategic Plan 2020 - 2025 is to ensure that our industry is a leader in animal care, representing our producers focus on, and commitment to, high welfare outcomes for the pigs within their care.</p> <p>APL does not support this provision to implement a statutory limitation period of 3 years. Reports of cruelty or suspected welfare issues should be addressed quickly, to ensure there are no ongoing welfare impacts or disruptions to the pork supply chain resulting in poor animal welfare outcomes.</p> <p>Additionally, APL does not support any form of regulation that would allow a penalty including the sale of animals, to be applied to a producer before court matters have been finalised. Any options proposed should allow for the best animal welfare outcome, which may require flexible options and arrangements dependent on the situation.</p>
<p>Part 8, Division 3, Section 129 Court may order disposal of animal during proceedings <i>(2) The officer may apply to the court before which the proceedings for the offence are commenced for an order for the disposal of the animal before the proceedings are finally decided.</i> <i>(3) The court to which an application under subsection (2) is made may—</i> <i>(a) order that the animal the subject of the application be sold or otherwise disposed of in a way the court considers appropriate in the circumstances, and</i> <i>(b) direct that the proceeds of the sale or other disposal be held in trust pending the determination of the proceedings for the offence and the further order of the court, and</i> <i>(c) make other orders the court considers appropriate</i></p>	<p>A key objective of APL’s Strategic Plan 2020 - 2025 is to ensure that our industry is a leader in animal care, representing our producers focus on, and commitment to, high welfare outcomes for the pigs within their care. The Australian pig industry invests significantly each year to research new technologies and practices to improve pig welfare and provide valuable education and training to stock people throughout Australia.</p> <p>APL does not support any form of regulation that would allow a penalty including the sale of animals, to be applied to a producer before court matters have been finalised.</p> <p>The Australian pork industry is complex, with a highly intensive supply chain. It is important that these new provisions do not create unintended negative animal welfare impacts or unnecessary regulatory burden for animal-based industries. This can be best achieved by ensuring a strong partnership approach between government and industry that facilitates better recognition of the pork industry supply chain and production methods.</p> <p>Any options proposed during the investigation or court proceedings should allow for the best animal welfare outcome, which may require flexible options and arrangements dependent on the situation.</p>
<p>Part 9 Committees, Division 1 Section 140 Membership</p>	<p>APL holds concern about the use of an independent panel or committee to provide advice and recommendations on pig welfare and pork production. Often industry is not represented</p>

<p><i>(1) The Animal Welfare Advisory Council consists of the number of members prescribed by the regulations.</i></p> <p><i>(2) The members of the Council are appointed by the Minister.</i></p> <p><i>(3) The regulations may provide for—</i></p> <p><i>(a) the skills and qualifications of members, and</i></p> <p><i>(b) the process for selecting and appointing members, and</i></p> <p><i>(c) the conditions on which members hold office, including the term of appointment, remuneration and matters relating to reappointment of members, and</i></p> <p><i>(d) the Council's procedures, including meeting procedures, acting arrangements for absent members and arrangements when members' offices are vacant.</i></p>	<p>on these panels, or consulted as part of decision-making, creating unintended negative welfare outcomes and increased regulatory burden for producers. APL has observed this through both domestic S&Gs setting in other livestock sectors and international Pig S&G development.</p> <p>APL strongly believes that to achieve the best welfare outcomes for our animals it is vital that there is a collaborative partnership between government and industry to inform a science-based approach and utilise expert opinion panels.</p>
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Should you like to discuss this submission further, please do not hesitate to contact Heidi Reid

Yours sincerely

Margo Andrae
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 Australian Pork Limited