

**Submission
No 132**

**INQUIRY INTO ANIMAL WELFARE POLICY IN NEW
SOUTH WALES**

Name: Dr Joy Becker

Date Received: 28 February 2022

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NSW Animal Welfare Reform

Re: NSW The Draft Animal Welfare Bill 2022

To whom it may concern,

Thank you for providing the opportunity to comment on the draft Bill for the new animal welfare legislation in NSW. I have reviewed the consultation outcomes report and the draft Bill. I have specific comments to make regarding aquatic animal welfare and proposals concerning live fish, decapod crustaceans and cephalopods.

Firstly, something about me. I am Associate Professor of Aquatic Animal Health and Production at The University of Sydney. I hold a Doctor of Philosophy in Fish Health from the Atlantic Veterinary College, Canada. My research program is focused on understanding and controlling production-limiting diseases affecting global aquaculture. I have expertise in an array of investigative tools from a variety of disciplines, such as epidemiology, immunology, microbiology and physiology to research important aquatic pathogens affecting both aquaculture species and wild fish populations. My research program has attracted research income in excess of \$4.5 million and I have co-authored 4 book chapters, 43 peer-reviewed scientific publications. I am the co-Editor in Chief of *Aquaculture, Fish and Fisheries* and a member of the Editorial Board for *BMC Veterinary Research* and *Preventive Veterinary Medicine*.

Finally, I have a passion for fish! I am a strong supporter of the recreational fishing industry. In addition to the economic benefits (many of which are vital to supporting our inland rural communities), recreational fishing is one of the few forms of nature-based recreation that can be enjoyed from childhood through to adulthood and the later times of life. Importantly, fishing is an outdoor sport that caters to any physical ability and is associated with positive mental health outcomes and an increased connection with the land.

The Draft Animal Welfare Bill 2022

I would firstly like to congratulate NSW DPI for spending the time and effort in reviewing animal welfare across the state. As an aquatic animal health researcher with a keen interest in aquatic animal welfare I have understandably focussed on those parts of the Discussion Paper, the consultation outcomes report and the draft Bill which address aquatic animal welfare.

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From the Consultation Outcomes Report, I note the following:

Proposal 3 – Update the definition of Animal

I strongly agree with and recommend the changes for the definition of animal as described in Proposal 3 to include all vertebrate species as well as decapod crustaceans and cephalopods.

Proposal 8 – Providing certainty for lawful activities.

As part of my comment to **Proposal 8**, I would first like to discuss **Proposal 5** around the definition of cruelty, with the proposed updated definition from the draft Bill is:

Meaning of “act of cruelty”

(1) 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 support these proposed changes to the definition and recommend that the definition of cruelty be updated as in the draft Bill.

Proposal 8 in the Consultation Outcomes report discusses the need for there to be clearly defined activities which are permissible under the new legislation. While it is acknowledged that these “defences” include qualifiers that mean the defence does not apply if a person causes unnecessary harm to the animal, the function of the defence is to provide certainty and to ensure the activities are considered lawful activities.

For example, this would include anything done for the purpose of “*fishing, hunting, shooting, snaring, trapping, catching or capturing the animal in a way that inflicted no unnecessary harm on the animal*” (Part 8 Division 2 1 b)i).

However, another activity that is proposed as being a permissible activity (and hence protected from prosecution under the new legislation) is:

Part 8 Division 2, paragraph 119 Specific Exemptions at (1) (page 44):

(g) for the purpose of using a live fish, decapod crustacean or cephalopod as bait or as a lure to take, or attempt to take, fish,

Personally, I struggle to understand how, in a draft Bill on welfare reform, NSW can, on the one hand strengthen the definition of animals and the definition of cruelty and then on the other hand send a message out to the public that you must look after the welfare of fish, decapod crustaceans and cephalopods BUT NOT if you plan to use them as live bait. **If you plan to use these animals as live bait, then it appears that welfare considerations do not apply.** This seems to be a contradiction in the legislation.

I do question whether the qualifier i.e. the defence does not apply if a person causes unnecessary harm to the animal, apply here? If so, I would ask how using a live fish, decapod crustacean or cephalopod as bait or a lure to take, or attempt to take, fish can be done without causing unnecessary harm to the animal?

However, I do concede that in the act of using a decapod crustacean as live bait, the process of inserting the hook will most likely instantly and humanely kill the animal. This is very different for a live fish. Fish are vertebrate animals and are recognized as being sentient animals (e.g. capable of experiencing pain and distress). A fish used for live bait is very much alive during the process of inserting the hook and then casting out and being dropped into a new environment. This would be in direct violation of the definition of cruelty, not legislatively aligned with all vertebrates being defined as animals in NSW and not in the spirit of the legislation that is to protect the animals defined within it.

I therefore strongly object to the use of any vertebrates as live bait and believe that it should not be considered permissible under the new legislation.

I am more than happy to discuss this issue further.

Regards,

[Dr Joy Becker,](#)

Picton, NSW