

**Submission
No 244**

INQUIRY INTO ANIMAL WELFARE POLICY IN NEW SOUTH WALES

Organisation: Panaquatic Health Solutions Pty Ltd

Date Received: 28 February 2022

To Whom It May Concern

In September last year I made a submission to the NSW Department of Primary Industries regarding the NSW Animal Welfare Reform - Discussion Paper. The reason for this submission was to make comment on a number of issues, including on Proposal 8- Providing certainty for lawful activities. In the Discussion Paper, NSW indicated that they wanted to streamline and strengthen animal welfare laws, noting that the science behind animal welfare had evolved since the Prevention of Cruelty to Animals Act 1979, the Animal Research Act 1985 and the Exhibited Animals Protection Act 1986 were introduced around 40 years ago, and so have community expectations.

However, at the same time they were proposing to have live baiting using fish, crustaceans and cephalopods legislated as a "lawful activity".

I never received any response to my submission in September. I was, however, extremely surprised and saddened that it would appear that one of the "lawful activities" that is going to remain in the new Act is the use of live fish, crustaceans and decapods for bait. This truly makes a mockery of any words that NSW may say that they are "modernising" and "strengthening" animal welfare laws. I do not know if any of those developing this new legislation has ever accompanied a fisher when out using live baits, particularly fish. How can the placement of a large hook through the back of a live fish and then the release of that fish into the water be considered anything but barbaric particularly in this day and age? And as I've made it very clear in my initial submission, I am a veterinarian with over twenty five years experience in aquatic animal medicine, teaching at two of the major veterinary schools in Australia (Charles Sturt and University of Melbourne) and having as my clients some of the larger fish farms around Australia.

At the very least fish should NOT be allowed to be used as live bait. Taking this option away will affect very few fishers. If this is not done it will be hard for any other welfare "reforms" that apply to fish to be taken seriously, in my humble opinion.

Best regards

Paul Hardy-Smith



NSW Animal Welfare Reform
NSW Department of Primary Industries

By email: animalwelfare.submissions@dpi.nsw.gov.au

14 September 2021

Re: NSW Animal Welfare Reform – Discussion Paper

To whom it may concern

Thank you for providing the opportunity to comment on this Discussion Paper. I have reviewed this paper and have a number of comments to make in particular regarding aquatic animal welfare and proposals concerning live fish, decapod crustaceans and cephalopods.

Firstly, something about me. I am a veterinarian and have been working full time in the aquatic animal industries since 1995. From 1995 until 1999 I was the Aquaculture Veterinarian for the Tasmanian Department of Primary Industries (consulting to the Tasmanian Salmonid Growers Associations and all its member companies) before moving to Canada where I was the Production Veterinarian for Heritage Salmon Limited, a Canadian company producing 15,000 tonnes of salmon annually.

After returning to Australia I set up Panaquatic Health Solutions Pty Ltd (“Panaquatic”) in 2003 and am the Managing Director of the company. Panaquatic is independent of any government, research or industry organisations. Panaquatic has as its clients fish farmers operating throughout Australia and growing a range of different aquatic species including Southern bluefin tuna, barramundi, Murray cod, Atlantic salmon, rainbow trout, Pacific oysters, prawns (shrimp), abalone and eels. Fish and shellfish are produced in a range of different systems including net pen sea cages, on land flow through tanks, ponds, racks and fully enclosed recirculation systems (RAS). Panaquatic also provides specialised services to government and industry in the area of fish health, welfare, biosecurity, translocation and production. I provide lectures in aquatic animal medicine to the Veterinary faculties of Charles Sturt University and the University of Melbourne where I am an Honorary Fellow. I am also currently the President of the Aquatic Animal Health Chapter of the Australian and New Zealand College of Veterinary Scientists.

The Australian Animal Welfare Strategy (AAWS) had an Aquatic Animal working group of which I was a member. I helped prepare a number of key position papers for that group, including a review of aquatic animal welfare arrangements in Australia in 2006. Panaquatic, in collaboration

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with The Aquarium Vet and the University of Sydney, is currently undertaking a Fisheries Research and Development Project “Aquatic Animal Welfare – A Review of Guidance Documents and Legislation”.

The Aquaculture Stewardship Council (ASC), a global company certifying aquaculture companies around the world, has seen the need for aquatic animal welfare guidelines and has set up a Technical Working Group tasked with preparing these guidelines. I am a member of this working group, which consists of aquatic animal welfare experts from around the world.

Finally, I am a keen recreational angler and have been heavily involved in the promotion of better welfare practices within the recreational sector.

The Discussion Paper

I would firstly like to congratulate NSW DPI for spending the time and effort in reviewing animal welfare across the state. As a fish veterinarian with a keen interest in aquatic animal welfare I have understandably focussed on those parts of the Discussion Paper which address aquatic animal welfare. I note the following:

Proposal 3 – Update the definition of Animal

My understanding is that the current definition of animal in NSW welfare legislation includes all vertebrate species (other than humans), and also includes crustaceans – but only when at a place where food is prepared or offered for consumption, such as a restaurant.

NSW are proposing to extend the definition of animal to include decapod crustaceans (e.g. crabs, lobsters) AT ALL TIMES and cephalopods.

I strongly agree with these changes to the definition and recommend that the definition of animal be updated.

Proposal 8 – Providing certainty for lawful activities.

As part of my comment to Proposal 8, I would first like to discuss **Proposal 5**, where my understanding is that NSW is intending to update the definition of cruelty. The proposed updated definition is:

Any act or omission resulting in an animal being unreasonably or unnecessarily:

- *harmed (which includes being inflicted with pain, caused distress, or caused physical or psychological suffering)*
- *beaten, kicked, killed, drowned, wounded, pinioned, mutilated, maimed, abused, tormented, tortured, terrified or infuriated*
- *over-loaded, over-worked, over-driven, over-ridden or over-used*
- *exposed to excessive heat or excessive cold.*

I support these proposed changes to the definition and recommend that the definition of cruelty be updated.

The Discussion Paper then discusses, in **Proposal 8**, 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 hunting, snaring, trapping etc an animal as long as doing so causes no unnecessary harm. However, the final activity that is proposed as being a permissible activity (and hence protected from prosecution under the new legislation) is:

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 Discussion Paper 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 them as live bait then it would seem that welfare considerations do not apply.

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? In many instances that I am aware of a hook is placed through the back of the fish and it is released into the water, essentially wounded and constrained. I question how this would not be considered causing unnecessary harm, not to mention causing considerable pain to the animal. It is also important to note that recreational fishers can catch fish without using live bait.

If NSW was to allow such an activity in legislation then in my opinion this strongly dilutes out the message that considering the welfare of aquatic animals is important. I am a keen recreational angler and have stood up in front of numerous recreational fishing groups explaining to them that using live fish as bait seriously compromises their welfare credentials. While a very small minority do not agree, there is a large majority of recreational anglers who totally understand this and the potential impact such activities have on social license. Maintaining and sustaining social license in the recreational fishing sector is critically important as is the provision of clear and consistent messaging. What is proposed here does not do that.

I would therefore strongly object to the use of live aquatic animals as live bait be considered permissible under the new legislation.

There is another issue that is not related to welfare but as a veterinarian I believe is important also to mention. It is a biosecurity issue. The movement of live animals between waterways has the greatest potential for moving infectious diseases. Allowing recreational fishers to potentially catch or purchase live animals in one locality to be used as live bait in another locality can have serious biosecurity consequences.

I am more than happy to discuss this issue further.

Yours sincerely

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