

REPORT ON PROCEEDINGS BEFORE

PORTFOLIO COMMITTEE NO. 4 - INDUSTRY

**EXHIBITION OF EXOTIC ANIMALS IN CIRCUSES AND
EXHIBITION OF CETACEANS IN NEW SOUTH WALES**

CORRECTED

At Jubilee Room, Parliament House, Sydney, on Friday 14 August 2020

The Committee met at 11:15

PRESENT

The Hon. Mark Bansiak (Chair)

The Hon. Catherine Cusack

The Hon. Wes Fang

The Hon. Sam Farraway

The Hon. Emma Hurst (Deputy Chair)

The Hon. Peter Primrose

The Hon. Mick Veitch

The CHAIR: Welcome to the second hearing of the Portfolio Committee No. 4 – Industry inquiry into the exhibition of exotic animals in circuses and exhibition of cetaceans in New South Wales. Before I commence, I would like to acknowledge the Gadigal people, who are the traditional custodians of this land. I would also like to pay respect to the Elders past and present of the Eora nation, and extend that respect to other Aboriginals present. Today we will hear from various interest groups including RSPCA NSW, RSPCA Australia, Animal Defenders Office, Action for Dolphins, Humane Society International, World Animal Protection, Sentient, and experts in animal and cetacean welfare Dr Verne Dove, Dr Ingrid Visser and Dr Joanne Dorning.

Before we commence I would like to make some brief comments about the procedures for today's hearing. While Parliament House is closed in terms of public access at the moment, today's hearing remains public and is being broadcast live via the Parliament's website. A transcript of today's hearing will be placed on the Committee's website when it becomes available. In accordance with broadcasting guidelines, while members of the media may film or record Committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I would also remind media representatives that you must take responsibility for what you publish about the Committee's proceedings. It is important to remember that parliamentary privilege does not apply to what witnesses may say outside of their evidence at the hearing.

I urge witnesses to be careful about any comments you may make to the media or to others after you complete your evidence, as such comments would not be protected by parliamentary privilege if another person decided to take an action for defamation. The guidelines for the broadcast of proceedings are available from the secretariat. There may be some questions that a witness could only answer if they had more time or had certain documents to hand. In these circumstances witnesses are advised that they can take a question on notice and provide that answer within 21 days. Witnesses are advised that any messages should be delivered to the Committee members through the Committee staff. I would like to remind everyone that we have a number of witnesses participating via teleconference today. To aid audibility please speak into the microphone when asking or answering questions. Finally, could everyone please turn their mobile phones to silent for the duration of the hearing.

DI EVANS, Senior Scientific Officer, RSPCA Australia, before the Committee via teleconference, affirmed and examined

LIZ ARNOTT, Chief Veterinarian, RSPCA NSW, affirmed and examined

TARA WARD, Volunteer Executive Director and Managing Solicitor, Animal Defenders Office, before the Committee via teleconference, affirmed and examined

FARNHAM SEYEDI, Volunteer Lawyer, Animal Defenders Office, before the Committee via teleconference, affirmed and examined

The CHAIR: Would any of you like to give an opening statement?

Dr ARNOTT: Yes. Thank you for the opportunity to attend these hearings. I will give this statement on behalf of Di Evans from RSPCA Australia and myself in my capacity as chief vet of RSPCA NSW. The RSPCA supports steps being taken to phase out the use of exotic animals in circuses and cetaceans for exhibition, and to end the breeding of exotic animals and dolphins for these same purposes. We acknowledge the need to consider a grandfather policy, particularly for Dolphin Marine Conservation Park, so that the existing marine facility can care for the remaining three dolphins. The phasing out of exotic animals in circuses should occur as soon as possible, but with consideration of the most appropriate retirement options and timing to best suit the needs of the animals and protect their welfare.

The RSPCA also encourages the Committee to support the completion of the feasibility study regarding the establishment of a sea pen sanctuary for the transfer of the remaining captive dolphins, to assess the potential that this will improve their welfare. As has been demonstrated through this inquiry there is a diversity of values in society about our treatment of animals. However, there is also a commonality in the view that it is permissible to use animals for human gain if they are afforded a good quality of life. The terms of reference of this inquiry require consideration of community expectations, which remind us that societal attitudes regarding animals have evolved. Society's concern for animals calls for respect and consideration, and that our use of animals must not violate their natures, and that this be guaranteed, if necessary, in law.

The new ethic for animals goes far beyond the issue of cruelty alone, so that most would agree that we want the animals in our care to live a life which is not just free from cruelty but that is, on balance, enjoyable and rewarding for these animals. Animals have needs that must be met to ensure their wellbeing. A need is a requirement; it is part of their basic biology—for example, the need to obtain a resource or to respond to an internal or external stimulus. Consideration of an animal's emotional state, as required by the assessment framework under the Five Domains model, determines that when animals' needs are not met they will experience a range of context-specific negative emotions such as frustration, boredom, loneliness and anxiety, and also be deprived of opportunities for positive emotional experiences.

We know about some of the needs of exotic species based on what they choose to do in wild conditions, but there are still gaps in our knowledge of the biological needs of animals to have access to particular things and to do certain behaviours. This is particularly the case for exotic species such as those held in circuses, which makes it extremely difficult to ensure that everything they need is provided within a circus beast wagon or a dolphin pool. Having opportunities to express a normal range of behaviours is a key quality for good welfare. Unfortunately, due to the restricted space and the mobile nature of these exhibits, circus animals cannot be given the opportunity to interact with complex or natural environments, to choose their own social groupings, how they obtain food and when they do it, or even the ability to soil at a distance from their sleeping and their eating areas.

We accept that the owners and handlers of circus animals may meet minimum requirements for care required by law, including food and shelter, but to assert that this secures a good quality of life for these animals and a positive welfare state is not in touch with a contemporary understanding of animal welfare. The prescribed standards for exhibiting circus animals in New South Wales show a real disconnect between, on one hand, accepting that certain exotic species are inappropriate for circuses because they have complex natural behaviours or preferences, while either still permitting their keeping or the keeping of animals of a similar kind. A similar tension exists in the standards permitting species to be confined in smaller enclosures than those that are required in fixed establishments. To suggest that the needs of an animal depend on their use by humans, rather than their species, is unsound.

The use of any animal must be justified by considering the cost to the animals and the gains for humans. The RSPCA questions the use of animals simply for entertainment where their confinement and environments are highly restrictive and lack the relevant complexity, choice and control. The exhibition of exotic animals and captives cetaceans is not a requirement for providing education or for promoting conservation. There is no

published evidence demonstrating a change in the behaviour of circus visitors with respect to conservation-mindedness and we do not depend on circuses for conservation research, for teaching or for species repopulation activities. While those with exotic animals and dolphins in their care may be few in New South Wales and they may indeed love these animals, this alone does not secure their welfare. We have an opportunity now to ensure that exotic animals in the future live in ways that puts their nature and their needs as the first priority.

The CHAIR: Thank you. Would you be prepared to table that so that it is correct on the record?

Dr ARNOTT: Yes, sure.

The CHAIR: Can we have an opening statement from either yourself, Ms Ward, or Mr Seyedi?

Mr SEYEDI: Yes. Thank you, Chair. We thank the members of the Committee for inviting us to give evidence regarding this important inquiry. The Animal Defenders Office [ADO] has stated in its submission and reiterates now that it does not support the practice of breeding or keeping exotic animals for use in circuses or cetaceans for exhibition. The world has moved on since these practices were considered normal. International common law jurisdictions have banned these practices in legislation and New South Wales should follow suit. We wish to stress that banning non-domesticated animals from circuses is not an attack on circuses. No-one is suggesting circuses shut down—most circuses provide wonderful entertainment—but confining and transporting non-domesticated animals purely for entertainment purposes is no longer considered acceptable by many societies around the world.

The practice is rightly going the way of the so-called freak show. Once viewed as a normal part of Western culture and circuses in particular, freak shows exploiting people of disability have long been relegated to the dustbin of history. Circuses exploiting non-domesticated animals purely for entertainment purposes are now similarly being rejected around the world as an anachronistic and harmful activity. Moreover, to justify the continued use of these animals on the grounds that they are somehow sustained by the bond between captive animal and trainer is a product of a solipsistic and anthropocentric outlook, and not based on either science or common sense.

The ADO therefore supports New South Wales following other common law jurisdictions, such as the United Kingdom, or more locally, the Australian Capital Territory, in introducing a legislative ban on the breeding and use of exotic wild and undomesticated animals in circuses in this State. Similarly, we recommend that New South Wales follows Canada in making it an offence to keep in captivity or to breed a cetacean. We commend the one cetacean display establishment in New South Wales for looking to stop breeding dolphins and to retiring the current group, two of whom we understand are still relatively young.

The ADO does not consider that the significant animal welfare issues associated with these practices can be remedied through further regulation as it is the practices themselves that are harmful to the animals. We further reject the proposition that these practices are done for the sake of conservation, and even if they were, the alleged conservation goals cannot justify the harm inflicted on the individual animals subjected to a life in extremely restricted captivity. With this inquiry New South Wales has an opportunity to be a leader in the welfare of exotic animals and cetaceans and in this way affirming the values of our community. As such we recommend that the keeping and breeding of these animals for these purposes be banned. Thank you, Chair.

The CHAIR: We will now proceed to questions.

The Hon. EMMA HURST: Thank you all for coming today and for the work you are doing in protection. I direct my question to either representative of the Animal Defenders Office. There were accusations made yesterday in the inquiry that animal protection groups are spreading misinformation and lies about the treatment of animals in circuses. Are you aware of any groups that have actually done that?

Mr SEYEDI: We are certainly not aware of any instances. But in terms of the submission we provided to this inquiry, we have relied on evidence that has been provided, and studies about the welfare of animals in these industries and we certainly endorse the evidence that we provided. But it is not something that we are aware of ourselves, noting that we cannot speak for all animal organisations.

The Hon. EMMA HURST: If it were to happen, if a charity were to, for example, say something that was clearly false, are there legal avenues already available that these businesses could use?

Ms WARD: Yes, there would be. There would be a cause of action in malicious falsehood, for example. There are definitely legal causes of action that could be pursued if that were to be the case. As my colleague Mr Seyedi said, we are certainly unaware of any instance of misinformation about treatment of animals in circuses being allegedly spread by animal protection organisations.

The Hon. EMMA HURST: Both Stardust Circus and Dolphin Marine Conservation Park have made public statements that they no longer intend to continue breeding. Do statements like this have any actual legal effect?

Mr SEYEDI: No. That certainly seems to be a statement of intention and we commend them for that intention, but that would be an operational or business decision and that would really still be a matter for them. Unless relevant legislation gives effect to any intention, it would not have legal effect broadly, or at least to our understanding it would not.

The Hon. EMMA HURST: To follow on the same question with the RSPCA and either representative, Stardust said yesterday that they are unsure if they want to stop breeding exotic animals or if they may in the future start breeding again. Does that concern you?

Dr ARNOTT: I guess our position is that we would like to see an end to the practice for animal welfare reasons. It concerns me if the basis for not making legislative change is simply that the industry will self-regulate, I think we are missing the point.

The Hon. EMMA HURST: Going back to the ADO, is there anything in the law currently that would stop these businesses from resuming breeding or stop someone else from breeding and using exotic animals or dolphins in entertainment?

Ms WARD: To our knowledge, no, because it is legal now and it has not been banned or prohibited in legislation. Provided it meets, for example, the conditions of their exhibition permit, et cetera, a licensed entity would be able to undertake that practice.

The Hon. EMMA HURST: I have a question for Dr Evans. The current New South Wales Biodiversity Conservation Act 2016 bans the wild capture of dolphins but fails to end the breeding for entertainment purposes. What amendments to the Act would the RSPCA suggest to clarify this?

Dr EVANS: We would like to see a blanket prohibition on the captive breeding of cetaceans and acquisitions for performances. We would not oppose the rescue and rehabilitation with intent to release cetaceans.

The Hon. EMMA HURST: So you would apply some exemptions to captivity, limited to some very specific aspects, like rescue?

Dr EVANS: Yes. It would only be deemed if in the welfare interests of an individual who was stranded or injured to be retained in captivity, that with the expectation and intent for rehabilitation to allow release, not with the intent to retain an individual in captivity.

The Hon. EMMA HURST: Dr Evans, you suggest in your submission that any legislation changes should include a prohibition on acquiring new exotic animals by circuses from other sources. Can you explain why this should be included?

Dr EVANS: I guess there is the capacity for individual businesses to access existing animals. There is translocation or swapping of animals, usually a one-way street from circuses to zoos. Our concern is that unless there was a strict legal requirement that you could not acquire, even if breeding did cease we would be concerned that there was the potential for animals to still be used in circus performances.

The Hon. EMMA HURST: Is that the same with dolphinariums? If Dolphin Marine Conservation Park voluntarily stops breeding and continues that, without any legislative changes could a new park still potentially set up without this legislation change?

Dr EVANS: Again, because there is another existing facility in Australia, our concern would be that there could be the potential for dolphins to be transferred into a new facility should one become established, even if there was a legal prohibition on breeding.

The Hon. CATHERINE CUSACK: Which facility?

The Hon. EMMA HURST: Sea World.

Dr EVANS: Sea World.

The Hon. EMMA HURST: A number of submissions have argued that circuses and dolphins play an important role in education, but your submission disagrees with this. Can you explain why you disagree?

Dr EVANS: In terms of education, we do acknowledge—do you want me to cover both circuses and marine parks?

The Hon. EMMA HURST: Yes please.

Dr EVANS: I will start with the circuses. There really is no evidence of an educational value in terms of the entertainment that is provided. The other side of the education issue, depending on what the goal of the education is, there are other alternatives to be able to get across particular messages. If you look at zoos, for example, the focus there is on conservation. It is very important to display animals that are threatened and that they are working on not only educating about conservation messages but we are also doing a lot in terms of making people aware about habitat restoration and a whole range of things that are to do with the natural environment. So if you look at that side of things, animals are being used in an educational context.

However, we can learn a lot about dinosaurs and whales but we do not have to see them and be in direct presence of them. Because it has been allowed up to date, people do feel that they need animals and the presence of animals to be able to transfer any particular messages. Certainly if you look at the dolphin situation, there is a book that has been published by Jenny Gray, who is the chief executive officer for Zoos Victoria, in terms of conservation and she has made this point very clear in relation to marine parks. She states that although marine parks with performing animals are considered part of the zoo industry, it is a questionable fit given that the modern zoo focuses heavily on welfare, conservation and education. She also states that there is no evidence that dolphin shows in any way promote the health and conservation of wild dolphins.

The Hon. EMMA HURST: What evidence is there regarding community expectations in Australia in regard to those two industries?

Dr EVANS: Community expectations?

The Hon. EMMA HURST: Yes.

Dr EVANS: I am having trouble hearing you.

Dr ARNOTT: I am happy to answer, if that is helpful. The RSPCA commissioned a report by an independent organisation of over 1,700 people that are from diverse backgrounds. Of those people, 68 per cent of people were concerned about the use of exotic animals in circuses and of the younger population range it was up to 75 per cent of people under 35. From my mind it goes to the whole of issue of the concern of people around confinement of animals. I think that is why we are seeing a push around circuses more than concerns about zoos. We know people have concerns about animals being confined so that they cannot do their natural behaviours. We saw the submissions in the layer hen inquiry and they were overwhelmingly in favour of free range. We have seen concerns about sows in the sows' stalls. I think it goes to the same issue that people feel confronted about this issue of animals being kept in small confinement.

The Hon. WES FANG: In the survey you just referenced I think it said there were 1,700 responses from a diverse range of backgrounds. Do you know how the survey was conducted, that is, was it online or face-to-face? Were those responses taken from a wide area across, say, New South Wales, for example, or was it predominantly done in the metropolitan area?

Dr EVANS: The survey, which was conducted by McCrindle, followed the accepted and validated methodology for conducting these types of community opinion. That was done through telephone and it covered all demographics, so urban as well as regional and diversity of population. It was not just New South Wales but it was across Australia.

The CHAIR: Can you provide the results of that survey. I looked for it after I read your submission but could only find reference to it in your submission and on your website. I could not find a direct link to the results.

Dr EVANS: Yes, we can certainly provide that.

The Hon. WES FANG: For further clarification, is it possible to also provide the raw data from that survey, that is, the questions that were asked and the responses and the demographics? Sometimes questions asked can be quite instructive as to how the responses are formed. If you have got the background data as well as the report, it would be instructive for the Committee.

Dr EVANS: Yes, we will follow that up for you. Can I also just make a comment regarding community values in relation to particularly tourism and the use of animals in tourism, which this is obviously intricately directly related to? A recent article has been published which is a review of 74 articles from 10 different tourism-focussed journals. We are seeing more and more animal welfare and animal ethics-related topics being published in tourism journals. This particular study found that overall the articles challenged the use of animals for entertainment and concern that there clearly does need to be a lot more research relating to ethics and the use of animals in tourism. Similarly a study published in 2008 of marine park visitors reveals that 47 per cent did not believe that dolphins and whales enjoyed their lives at aquariums compared to 24 per cent who thought they did. These are just really interesting results that are coming through. I can send this information to the Committee after this hearing.

The Hon. PETER PRIMROSE: I direct this question to all witnesses and probably most appropriately to the Animal Defenders Office. Yesterday the Committee heard considerable evidence, particularly from Animal Care Australia relating to definitions in the legislation. It included the definitions being used in the terms of reference for this inquiry. In particular they queried the term "exotic animals" which, according to our terms of reference, is defined to mean any animal other than a stock animal or a companion animal. They continued on basically arguing that the term "exotic animals" was meaningless. For instance, they quoted that lions and rhesus monkeys that have been born, bred and raised in the care of Stardust over many generations are by government departmental definitions all domestic animals and this negates the purpose of any restrictions or further legislation on the keeping of exotic animals in circuses in New South Wales. My question simply to you is in terms of any case law, has there been a dispute about this term? What were the findings? Please feel free to take it on notice if you wish.

Mr SEYEDI: I am from the Animals Defenders Office. In terms of case law specifically, we can certainly take that on notice and see what we can find about that. What we do know in terms of our various jurisdictions, including the Australian Capital Territory, which is the only one that has banned these practices, is that where "exotic animals" is referred to in legislation it is usually much more prescriptive in the drafting rather than referring to a more general definition of these animals. For example, in the ACT and that type of animal welfare Acts which bans the use of these animals in circuses, they actually refer to them as "prohibited animals" and they specify the species rather than their domestic or non-domestic status.

So it says in that part in section 51 (a) specifically, it includes that they are elephants, primates, other than a human, sea lion, other than a domestic cat or (c) an animal prescribed by regulation. In other jurisdictions that seems to be the case as well although we acknowledge there can be arguments about the meaning of certain words, including within the terms of reference. We would just say that that is the matter for the Committee and for Parliament generally in terms of how they would wish to legislate if this Committee would recommend that they do to conduct any reform. Just noting that it is very open to specify the species of animal rather than providing a more general definition.

Ms WARD: If I can add to my colleague's comments, noting as well—and we did note this in our submission—that the United Kingdom took a slightly different approach and has used the generic term "wild animal", and has defined that to mean an animal that is not commonly domesticated in Great Britain. That is just an example of an alternative approach.

The Hon. PETER PRIMROSE: I think the Committee and I would request any general case law on this, plus a list of those alternative definitions that we can look at with any commentaries and any recommendations that you may wish to make. That would be of value. Do any of the other witnesses have any comments on that?

Dr EVANS: None from me.

Dr ARNOTT: Perhaps related to the definitions issue, although on a slightly different tone, I recall from yesterday concern about the inclusion of livestock and I note that clause 5 of the Exhibited Animals Protection Regulation specifically excludes livestock and agricultural shows from the remit of that legislation.

The Hon. PETER PRIMROSE: In a similar vein, the only other point I wish to raise is the definition of circuses that was raised. Again, I will quote from Animal Care Australia. They expressed concern that the definition of circuses as meaning "any premise occupied by temporary or movable structures used for the purpose of a circus fair, fun-fair, amusement park or similar place of public entertainment"—essentially they argue that this would particularly affect things such as agricultural shows and local fairs, and could also be more far-reaching and involve animals utilised for film and television. I was again wondering if you have any comments on the definition of a circus.

Ms WARD: Sorry, was that directed to us here at the Animal Defenders Office?

The Hon. PETER PRIMROSE: To all witnesses, but probably most appropriately for the Animal Defenders Office.

Mr SEYEDI: Would it be possible to repeat the question because we only dialled in halfway through it?

Ms WARD: Yes, it drops out.

The Hon. PETER PRIMROSE: Animal Care Australia raised a definitional issue of the term "circus" and indicated—I will not read through the whole definition, but they question the current meaning of the term circus—that actually it is so broad that it could begin to include mobile petting zoos, mobile educators, agricultural shows, local fairs and even animal shows and exhibitions. It may even affect the provision of animals for film and

television. Again, given that this was such an important part of their evidence, I was just wondering if witnesses had any comment on that definition.

Ms WARD: Yes, that was an interesting contribution yesterday. But we were left scratching our heads at this end because we are not sure of the connection between this inquiry and the bill that the witness was referring to. Our understanding is that the bill lapsed on prorogation—when the previous New South Wales Parliament was dissolved—and has not been reintroduced, so any definition contained in that bill is of historical interest only at this stage and bears no relation, as far as we can see, to proceedings today.

The CHAIR: Can I just jump in there and maybe explain where the concern lies with that. As part of this inquiry being set up, there was an e-brief done by the parliamentary library and they cited that definition from the Act and then the definition of exotic animals used was also directly lifted from that Act for this terms of reference. There was concern from that group that there was going to be an attempt to adopt a definition that was originating from a lapsed bill. That is where the concern lay—that is where the connection was coming from.

Ms WARD: Absolutely, yes, we understand that.

Mr SEYEDI: Thank you for the explanation, Chair. Just noting that our understanding of that e-brief, although it was provided, appears to be specifically in the context of that private member's bill and seems to draw out definitions from the bill specifically that are set out in that bill, rather than an overview of the definition. We acknowledge that concern. In terms of existing definitions or understanding, I note that section 22 of the Exhibited Animals Protection Act states "circus" in subsection 2. It does not define it, but when setting the requirements for different displays it says that you can exhibit an animal, "including for the purposes of a circus, fun-fair, amusement park or similar place of public entertainment".

Although it would really be a matter for legal interpretation, we note that it being in the context of those other words would narrow the scope of what would be considered a circus to within the meaning of the surrounding words. I do not think we accept that the term "circus" could be broadened to mean many other industries. I also note that our approach to the submission and terms of reference was based on that legislation as well as the Standards for Exhibiting Circus Animals in New South Wales. So for the term "circus" we operated at least in the context of that Act and the standards for exhibiting circus animals and did not consider that it would be broader than that—noting that that is a matter for the Committee and Parliament generally to determine what is and how to appropriately specify any reform.

The Hon. EMMA HURST: I have a couple of quick questions left. This is for the Animal Defenders Office: You mentioned that the Australian Capital Territory has banned exotic animals in circuses. Can you tell us a little bit about this legislation and if you think that would be a good model for New South Wales?

Ms WARD: That legislation has been in place since 1992, so it has stood the test of time. It is comprehensive in the sense that it applies not just to circus troupes with those prohibited animals performing—it is not just a ban on the animals performing in the jurisdiction—but indeed a ban on them even travelling and whether or not they can be used in a performance. So in our sense it would be a good precedent: it is comprehensive and really does go to the issue of these animals should not be kept in any connection with a circus. Also, as my colleague Mr Seyedi previously mentioned, the approach to defining the animals are covered by the prohibition. It is a particularly good one because it does allow for animals to be prescribed by regulation. So, in other words, there is that flexibility to change as society and society's values change. So, yes, we would recommend it as a tried and true legislative precedent.

The Hon. EMMA HURST: My last question—yesterday we heard people from the circus giving evidence. They all agreed with the proposal that animal charities should be deregistered in regards to their position on this. Is this something that you have a response to or is this something that you feel is common that industries put forward?

Mr SEYEDI: We did tune into that evidence that was being provided. All we can say to that proposal is that it did appear from us to have broadened quite a bit from the terms of reference of the inquiry. Our understanding is that this is an inquiry about the relevant industries of circuses and marine parks, rather than animal charities. If there were to be any appropriate inquiry into animal charities, we would welcome the opportunity to provide a submission and be invited to provide evidence, but we do not consider it otherwise relevant to this inquiry in terms of the most appropriate reform—except to say that, at least in terms of our organisation, we certainly would not want to lose our registration. But we can only speak for ourselves.

The CHAIR: Thank you. Ms Cusack, do you have some questions?

The Hon. CATHERINE CUSACK: My questions are to the RSPCA. You mentioned in your submission that there are two zoos in New South Wales which have exotic animals. I just wondered if you could mention which two.

Dr ARNOTT: On hearing the evidence from the NSW Department of Primary Industries yesterday I defer to its knowledge of this according to who it registers. But from hearing its witnesses I understood it to be two companies, one of which has the Stardust, Lennons and Burtons, and another one, Animals All Around.

The Hon. CATHERINE CUSACK: The reason this is of particular interest is because the RSPCA inspects those zoos.

Dr ARNOTT: They respond to complaints to those circuses, yes.

The Hon. CATHERINE CUSACK: The circuses—I apologise. The RSPCA has a regulatory role, though, in relation to those. Have you been able to access any of the RSPCA's experience in the submission that has been put forward to us?

Dr ARNOTT: I did inquire as to the statistics on how many complaints had been made since 1 July 2018 and the answer was that there had been nine complaints investigated in that period. I do not have offhand which circuses specifically.

The Hon. CATHERINE CUSACK: How many of RSPCA's staff do the investigations?

Dr ARNOTT: We have 33 inspectors that all have regional responsibilities. Whoever is allocated the investigation, I imagine, would investigate—

The Hon. CATHERINE CUSACK: It is kind of a generic role? You do not have anybody who specialises in regulation in this field?

Dr ARNOTT: Sorry, they have a specific requirement to enforce the Prevention of Cruelty to Animals Act 1979 as it applies to all the species covered by that Act.

The Hon. CATHERINE CUSACK: In relation to all the licensing and the legislation governing exotic species in circuses, for example, are they familiar with that legislation? I am just really interested in their feedback about what the strengths and weaknesses of that legislation are.

Dr ARNOTT: The regulatory framework that you are describing is the Exhibited Animals Protection Act 1986 and all the licensing is enforced by NSW Department of Primary Industries. The inspectorate at RSPCA purely has responsibility for the Prevention of Cruelty to Animals Act aspects.

The Hon. CATHERINE CUSACK: The suggestion from witnesses yesterday was that they have an excellent working relationship the RSPCA inspectors who come, that they appreciate the efforts that they take, that their feedback has been positive and that they were quite shocked by this submission from the RSPCA. Is there a difference of view within the organisation?

Dr ARNOTT: I am not surprised if there is a diversity of views on circuses in general, as there is in the community. I guess that has given rise to this inquiry. I have not spoken to any of the individual inspectors on their specific views, but it would not surprise me if there is, as I say, a diversity of views among the organisation.

The Hon. CATHERINE CUSACK: How is it possible for us as a Committee to get the feedback from the inspectors who have actually been doing that work, who have actually been out there doing the inspections?

Dr ARNOTT: We can provide you with the information as to what they found when they investigated the complaints.

The Hon. CATHERINE CUSACK: That would be really helpful if you could. Sydney Aquarium is a facility that has a dugong as well as the dolphins. Does the RSPCA wish to see it close down as well?

Dr ARNOTT: I will probably defer to Dr Evans as to whether she has any particular knowledge of the welfare of the animals in that facility. I do not.

The Hon. CATHERINE CUSACK: With respect, the submission is very clear that there should be no more licences and existing facilities should be phased out. That is why I am curious. It is one of Sydney's biggest tourism attractions and it has all of these animals that your submission refers to, so the question becomes: Would the RSPCA be advocating the closure of the Sydney Aquarium?

Dr EVANS: The focus of the submission is on cetaceans and the exhibition of cetaceans, so it would only be those facilities where they are using cetaceans for performance rather than what was expressed earlier, where there is a role and work being done to rescue, rehabilitate and release cetaceans.

The Hon. CATHERINE CUSACK: Then why has your submission—

Dr EVANS: We do acknowledge—

The Hon. CATHERINE CUSACK: —said no more licences should be issued? It does not seem to appear to envisage that role at all.

Dr EVANS: Are you talking about recommendation No. 7 from the submission? It states:

No further permits should be granted to new marine park proposals which intend to exhibit cetaceans.

The Hon. CATHERINE CUSACK: Yes, it is in relation to that recommendation, but the narrative in the submission speaks quite strongly to that as well: that it is basically impossible—that pretty much sums up the submission—for animals like dolphins to be managed in captivity in the best welfare interests of the animal.

Dr ARNOTT: I think that is consistent with the evidence given by Dr Clegg yesterday where, when asked if it was possible, she said she believed it was very difficult to attain. It may be possible, but very difficult to attain. I guess the recommendation that we would not like to see anyone further licensed for the keeping of those animals—dolphins and whales, cetaceans—is consistent with a high risk that their welfare will be compromised.

The Hon. CATHERINE CUSACK: It is just that it is really—because this is an inquiry into a bill and legislation we are really trying to work out where you want to draw the line. Are aquariums in or out? Because what you are saying in the submission appears to apply as equally to the Sydney Aquarium as to the Coffs Harbour—

Dr ARNOTT: I would probably leave that to experts, in terms of getting that intent in regulation, but at the moment schedule 2 to the Exhibited Animals Protection Regulation 2010 lists the species that may be held on permit. I guess one way would be to remove the capacity to obtain cetaceans from that.

Dr EVANS: Perhaps if the wording was changed a little bit it might provide more clarity: "No further permits to exhibit cetaceans to be granted to new marine park proposals". That would sort of clarify that it is the cetacean aspect, not the actual marine park.

The Hon. CATHERINE CUSACK: It is just that in Coffs Harbour there is a proposal to relocate their facility potentially to a place like Nambucca and have a whole brand-new standard of facility that will better care for their animals, but it sounds like you would be opposed to that, that you would rather phase out the facility they have and not permit the new one, which would have a rolling—

Dr EVANS: Recommendation No. 4 does say to transfer the existing dolphins to a sea sanctuary, on the basis that it would provide better welfare outcomes. In the opening statement we did support the completion, and Government support to enable the completion, of the feasibility study. The sanctuary, which has a different focus—and we certainly acknowledge the change in direction by Dolphin Marine Conservation Park to a business model that has a stronger focus on that rehabilitation and rescue element—

The Hon. CATHERINE CUSACK: You are saying that they could be licensed, in your opinion?

Dr EVANS: Yes, for the purpose of rescue rehabilitation, not for performance.

The Hon. CATHERINE CUSACK: What revenue stream would you recommend they have? For example, I know the RSPCA is an organisation that needs to function with a revenue stream. So do these organisations.

Dr EVANS: Certainly. I think they would probably adopt more of a zoo-type business model as well as not for profit. There are still very successful interpretive centres that exist that may have animals present, but not animals that are performing for entertainment. I think it is teasing out the construct, if you like, of how it operates. I will just also make a comment on the mental needs regarding the welfare of captured cetaceans—just a couple of points. I certainly acknowledge the work that Dr Clegg has been doing. But one of the issues that relates to the seawall and depth that she mentioned yesterday, which is omitted from that index, is positive emotional state, which is the twelve criteria. That is due to the paucity of data regarding emotional state in cetaceans.

That was also acknowledged by another 2017 publication where it was stated that a deficiency of the tool overlooks the importance of species to get foraging behaviour for optimal welfare. The other challenge, I think, in a captive environment—you would have heard Dr Clegg talking about the importance of environmental enrichment because we are trying to meet the mental and behavioural needs of these highly intelligent animals. There have been a couple of studies that really highlight the complexities and difficulties in doing this. One study in particular that involved six dolphins found that only 50 per cent of the objects that they provided lifted their manipulative behaviours. So not all of those objects can be considered to be toys.

Another study showed that some individuals were negative towards the environmental enrichment; so it did not really have any positive benefit. I think this is one of the biggest problems. There is also a study which looked at synchronous swimming, and this is one of Dr Clegg's studies. Synchronous swimming is correlated with positive mental state, but three-quarters of the dolphins that were studied showed evidence of a negative mental state; their responses were tending towards pessimism and not optimism. I think that these sorts of research studies certainly raise concerns and provide evidence that this is a very, very difficult challenge for these marine parks to be able to address.

The CHAIR: Thank you. We heard evidence yesterday about concerns about the RSPCA's submissions and position on circuses in terms of allegations of animals being dressed up for performances, but they drew a comparison between that and your Million Paws Walk, where you openly advertise dogs in tutus running across the screen to promote, obviously, a fundraising event. I am giving you the opportunity to respond to what clearly seems like a bit of a conflict or—

The Hon. WES FANG: Double standard.

The CHAIR: —double standard or hypocrisy in your position about using animals dressed up for, I guess, a financial benefit.

Dr ARNOTT: I do not know where that comment is. Perhaps Dr Evans could suggest about dressing up animals and the RSPCA having a comment on that. My experience of Million Paws Walk—being new to the organisation—is that they sell some bandanas and that there have been statements on the website that if people intend to dress their domestic animals up that it would be on the basis that it was not just for the day, that it was something they otherwise did with the animal. I do not have much further to say on this as a substantive welfare issue.

The CHAIR: Dr Evans, did you have any other comment on that? I am just giving you guys the opportunity as a right of reply.

Dr EVANS: Sure. I guess the parallel might be that it is a performance rather than an individual owner who might choose to do that to an animal. We do have advice regarding the use of any sort of dressing up in terms of making sure that it is safe and appropriate and that the animal is not distressed by that. But I can certainly provide the Committee with more information regarding that particular issue.

The CHAIR: That would be great. One final set of questions. In your submission you referenced a study by a Jo Dorning and Stephen Harris, who created a research paper as people were not happy with the Radford study in the UK. You say that there was a comprehensive study which involved contacting over 650 people, but if you actually dig deeper into that research, they originally contacted 613 respondents and only 97 responded and then from that they manufactured some value statements and then contacted 623 people—it is unclear as to whether they were the same people or not—and only 98 responded. So you are looking at, between those two separate surveys which the study is based on, you are looking at a response rate of 15-odd per cent. Is it your testimony or submission that we should be basing legislative decisions on clearly a survey that had very low engagement and is statistically irrelevant when you look at the numbers that they engaged with? Is that your testimony, that we should be relying on that survey, given that you have referenced it?

Dr ARNOTT: I think the paper also undertook a literature review and looked at several bodies of evidence. So I think our testimony would be, considering the full body of evidence on animal welfare science needs, that you consider that in your determination of whether circuses can meet the requirements for good welfare. I also suggest that—I withdraw that; go ahead, Di.

Dr EVANS: Sorry, I did not quite catch the last bit there.

Dr ARNOTT: Did you have anything further on the Dorning study?

Dr EVANS: I did not really hear what you said. Sorry, the line is not very good. I guess in terms of the Committee's deliberations, some of the issues that were raised in that particular study would still bear some relevance. So we would suggest that it is looked at.

The CHAIR: Do you still believe it is comprehensive though given that it is only such a low response rate, and do you have any commentary about why you think essentially 85 per cent of the population that they surveyed chose to not actually engage in the research, they put the questions out there and 85 per cent said, "I'm not engaging."

Dr ARNOTT: Research surveys consistently have fairly low response rates; so that is not an unusual response rate. I think the other findings of the study were that they did get responses across the whole gamut of stakeholders, from NGOs, from industry and from scientists and from legal experts as well, and that the agreement

between legal experts and scientists was quite high whereas there were quite diverse views from other stakeholders. So I guess it might also give the Committee some ideas on the credibility of scientific evidence and expertise compared to where there might be commercial stakeholder interests and how you weigh up that in your decision-making.

The CHAIR: I guess the concern for me is that in terms of gauging community perception it is hard to do so with such a low response rate. We can push the scientists and that to the side, and if we are looking at that study as a way of gauging community perceptions it is probably not possible to gauge a solid understanding of what the community perception out there was.

Dr ARNOTT: I am not sure that was the objective of the study though. I think it was to try and get an assessment of animal welfare. So those value statements they made were on expert opinion on what would be a measure of animal welfare and they then tried to assess the welfare of circus animals against that by, I think, also comparing the quality of life they might be provided in zoos. So I agree there is different evidence you are trying to put together—one is community sentiment and one is expertise on animal suffering—and it requires an accumulation of all the evidence, not just one paper.

The CHAIR: Any other questions?

The Hon. EMMA HURST: I have got one question if we have got a couple of minutes. I have just got a question for Dr Evans. You mention in your submission as well that bottlenose dolphins are not endangered, and this is something that came up quite a bit yesterday and in some other submissions about the purposes of conservation. What is your position on the idea of keeping dolphins and other animals in circuses for conservation purposes?

Dr EVANS: I think that this is one of the areas that have been identified regarding legitimacy or justification for retaining wild species in captivity and that is that generally the community accepts that if there is a valid reason in terms of conservation or it perishes. So based on that sort of society attitude, if there was evidence that the bottlenose dolphin overall world population was at threat, then to save that species if it was deemed imperative to retain some of these animals in captivity to obviously be used to re-populate the natural environment people would probably accept that, but otherwise not.

Dr ARNOTT: May I just add to that very quickly? It sounds like the work being done in terms of education and training of vets by the guys there at Coffs Harbour is really significant, but I certainly did not hear from their statement that they would be unable or unwilling to continue that important contribution in the event that legislation was passed to no longer have dolphins in captivity.

The Hon. EMMA HURST: And what about in regards to animals in circuses, say the lions and the macaques, are they endangered animals that need to be bred in these industries for conservation?

Dr ARNOTT: Rhesus macaques certainly are not listed as endangered. I believe that lions probably are, but I guess what is the conservation benefit that we are getting? Are they being used for re-population—they are not in terms of circus animals—or are they being used to try and change people's attitude to do positive things for conservation? The only studies I am aware of that—unfortunately there does not seem to be an investment in the research into the circus industry in Australia, but there certainly has been in zoos and what they have found is people's attitudes to conservation are most likely to change when they view animals in environments doing their natural behaviours and in large natural type environments. One study in 2018 and another one in 2014 found that when people saw elephants engaging in things like playing in water and playing with each other and dust bathing, they were much more likely to be engaged in a conservation message.

The Hon. EMMA HURST: Thank you.

The CHAIR: Just one final question for the Animal Defenders Office. In your submission you recommended a ban and then a short period for exotic animals to be rehomed to a sanctuary. When you were coming to that recommendation did you actually investigate the availability and willingness of other facilities to take these animals? Was any research done by your office as to whether it was even feasibly possible?

Ms WARD: No.

The CHAIR: So it was just based on an assumption that it was?

Ms WARD: Not an assumption, no. It would be the usual [inaudible] exercise and investigation that would take place with any transitional arrangement to do with new legislation.

Dr ARNOTT: And possibly it is a reasonable assumption because under clause 3 of the Standards for Circuses these people are required to retire their animals once they have finished performing, ideally to a fixed establishment like a zoo. I think we heard evidence yesterday that they did plan for those sort of contingencies if

the animals got old, if they did not enjoy it or in the tragic circumstances we heard where an elephant had to be removed after injuring someone.

The CHAIR: There was testimony that they had invested in their own sanctuary but they also have put in their submission and openly stated that they have approached zoos and no zoo is actually willing to take some of these animals and that is why they had to invest in their own sanctuary, so to speak.

Dr ARNOTT: It speaks to a bit of a sustainability issue. Even without a ban, where are these animals to go when under the legislation they at some point have to retire?

The CHAIR: And that also speaks to the concern about legislating that phase-out if there is already a natural phase-out and maybe there are more perverse animal welfare outcomes that would come from legislating and putting a date on it, as we heard from the mulesing inquiry.

The Hon. CATHERINE CUSACK: These animals, the limited number that we have, there is a plan for them. There is a plan for the limited number that we have.

Dr ARNOTT: Yes, so is that an argument for not allowing more?

The Hon. CATHERINE CUSACK: I am talking about what happens to the animals at the end of their life.

The CHAIR: That is time, unfortunately. We might have to continue that debate offline. Thank you very much for your time on the line and in person. If you have taken questions on notice or have agreed to table certain information, the Committee secretariat will be in touch to arrange that.

(The witnesses withdrew.)

(Luncheon adjournment)

GEORGIE DOLPHIN, Program Manager, Animal Welfare, Humane Society International, Australia, sworn and examined

HANNAH TAIT, Public Engagement Officer, Action for Dolphins, affirmed and examined

BEN PEARSON, Head of Campaigns, World Animal Protection Australia, affirmed and examined

The CHAIR: Welcome back to our session after lunch in our inquiry into exhibition of exotic animals in circuses and exhibition of cetaceans in New South Wales. This afternoon we have Ms Georgie Dolphin, Ms Hannah Tait and Mr Ben Pearson. Would any of you like to proceed with an opening statement?

Ms TAIT: Yes, I think all three of us will, and I will begin. Good afternoon. Action for Dolphins, who I will refer to as AFD, has been operating to gain legal protection for cetaceans in Australia and around the world for over seven years. We have been lobbying for a legislative ban on captive breeding in New South Wales since 2014 and we are currently working alongside World Animal Protection and Dolphin Marine Conservation Park, or DMCP, on a feasibility study to establish a sea pen sanctuary in New South Wales. As you are aware, there is only one marine park with captive dolphins in New South Wales. DMCP currently house three dolphins, Zippy, Bella and Jet. Their current management policy is to no longer breed dolphins in captivity.

We ask that clause 3.7 (a) in the Standards for Exhibiting Bottlenose Dolphins that states "breeding should be a fundamental aim of any facility keeping bottlenose dolphins" be removed and a legislative ban on captive breeding of cetaceans be put in place. This is for two primary reasons: the first being due to high infant mortality rates, which are prevalent in captive environments; and, secondly, it is in line with changing community attitudes in Australia surrounding seeing dolphins in captive environments. A Galaxy poll from 2015 found that two out of three Australians are not in favour of captivity, and major companies such as Instagram, Booking.com, TripAdvisor and Virgin Holidays are changing their business practices, no longer selling tickets to marine parks unless they have sanctuary plans in place.

While we agree with DMCP's current internal policy to no longer breed, management could possibly change in the future, so a legislative ban would ensure that the generations of dolphins currently in captivity would definitely be the last. A recent animal welfare assessment by a leading cetacean welfare expert showed moving the remaining captive dolphins in New South Wales to a sea pen sanctuary would improve their welfare. AFD asks that exhibiting cetaceans in captivity for commercial purposes be banned, with an exemption for dolphins kept in a sanctuary environment and not for commercial purposes. AFD supports the rescue and rehabilitation of animals in a sea pen sanctuary environment, with the view to releasing them back into the wild. We also call on the New South Wales Government to fund the remainder of the feasibility study and the establishment of a sanctuary for New South Wales' remaining captive dolphins.

The CHAIR: Thank you. Given that that seemed like a prepared response, are you happy to hand that to Hansard so they can get everything exactly right?

Ms TAIT: Yes, of course.

The CHAIR: Ms Dolphin?

Ms DOLPHIN: Humane Society International [HSI] welcomes the opportunity to attend this hearing to share our recommendations on behalf of our 70,000 Australian supporters. Attitudes towards animals are changing with increasing moral sensitivity over the use of animals for entertainment and concerns for their welfare. This movement is strongly reflected here in Australia on many fronts. We have already seen upwards of 40 councils banning the use of circus animals here and only one dolphinarium continues to operate within New South Wales. HSI recommends the Committee support the statewide prohibitions on both the breeding and use of exotic animals in circuses and cetaceans for exhibition. HSI considers it outdated and out of step with today's moral values to teach children that it is acceptable for exotic animals to be kept purely for entertainment. Some argue that without these facilities many people would be denied the opportunity to see these amazing animals first-hand, but, as stated in the submission by Ontario Captive Animal Watch, every small child knows about dinosaurs without ever having seen one. Captive animals are not essential for education or inspiration.

With today's knowledge and attitude to protecting the natural environments and animal welfare, it is more appropriate to teach children to respect living, sentient animals and learn how the species thrives in their natural surroundings. HSI is, of course, primarily concerned about the welfare of the animals. To firstly address the use of exotic animals in circuses, we believe that these artificial environments are grossly incompatible with their physiological, social and behavioural needs. The lions and monkeys currently featured in circuses in New South Wales are subjected to regular transportation, caged confinement, loud noises and bright lights during shows. They are denied the ability to adequately socialise or exhibit natural behaviours, suffering stress and boredom

likely due to lack of stimulation. A 2009 Bristol University study revealed that lions in particular are one of the least suitable species for the captive environment like circuses. The study states:

The deleterious effects that circus life has on individual animals are a primary welfare concern. Circus animals spend the majority of the day confined, a small amount of time performing/training, and the remaining time in exercise pens.

Similarly, the very nature of cetaceans makes them uniquely unsuited to the confinement they are subjected to in captivity. Dolphins or whales are best seen in their natural coastal and ocean ecosystems. HSI strongly supports legislation to prohibit the keeping of cetaceans for display purposes and entertainment. This legislation should also prohibit breeding cetaceans for display and commercial purposes. We note the breeding of cetaceans serves no conservation benefit, as dolphins are not endangered. It is encouraging that Dolphin Marine Conservation Park [DMCP], the last remaining dolphinarium operating in the State, implemented a policy against breeding last year and is working collaboratively with others to transition their three remaining Indo-Pacific bottlenose dolphins to a sea sanctuary. We encourage Government to support this initiative and recommend these moves towards improved welfare. We offer our support for the grandfather clause that would exclude DMCP from any exhibition ban on the proviso that the sea sanctuary goes ahead. That said, the HSI strongly objects to the entertainment aspects of the facility, both past and present, and recommends that the performances and "swim with" interactions be terminated immediately.

It is imperative that the three remaining dolphins are the very last generation in New South Wales with the implementation of State legislation to prohibit breeding. We recognise the need for the standards for exhibiting bottlenose dolphins in New South Wales to be reviewed to improve provisions for both environmental enrichment and attributed space. Globally, a growing number of countries have banned or stopped keeping captive dolphins, including Canada most recently. But, unfortunately, in parts of Asia it is still an industry on the rise. Award-winning documentary *The Cove* featuring Ric O'Barry exposed the reality behind the captive dolphin trade with footage of Japan's notorious dolphin hunts, where wild-caught dolphins are captured to supply dolphinariums around the world. Although Australian dolphinariums do not import any wild-caught dolphins from Japan, they still display captive dolphins. By showcasing these animals in tanks, they are publicly normalising the captive dolphin trade, helping to fuel the demand.

The Taiji dolphin hunts operate almost daily for six months every year and will likely continue until the demand for captive dolphins ends. It can be argued that every dolphinarium is indirectly contributing to these cruel wild hunts. To conclude, HSI supports an end to the use of exotic animals in circuses and the exhibition of cetaceans in New South Wales, because their welfare needs cannot be met and there is no genuine conservation benefit. We recommend the retirement of all exotic animals used in circuses and cetaceans used in marine parks in New South Wales, ending all performances and public interactions immediately. For those deemed unsuitable for release into their natural habitats, animals should be transitioned to a suitable sanctuary where they can live the most natural life possible. Legislation must ban breeding as well as the acquisition of all exotic animal species for use in circuses and of cetaceans for exhibition across New South Wales. With the vast array of alternative forms of family entertainment on offer today, there is no longer a place in modern society for either exotic animals in circuses or the exhibition of cetaceans.

Mr PEARSON: My name is Ben Pearson. I am speaking on behalf of World Animal Protection and our supporters. We will confine our remarks to the issue of captive cetaceans; specifically, the three remaining dolphins at Dolphin Marine Conservation Park. We do not want to repeat the evidence in our submission, nor the statements made by the other witnesses appearing here today, other than to note that we endorse them. Instead, we wish to urge the Committee to throw its support by the ongoing work to determine the feasibility of a sea sanctuary for the dolphins currently at Dolphin Marine Conservation Park and the transition of the venue to one that is more focused on education, conservation, research, rescue and rehabilitation. The transition, if successful, could provide a model for other wildlife entertainment venues globally, as they determine what to do with their dolphins. The new model, with a sea sanctuary at its core, will benefit the dolphins, who will live for many years to come. It will benefit the employees of Dolphin Marine Conservation Park and the wider Coffs community, which has worked at, visited and benefited from the economic activity created by Dolphin Marine Conservation Park since 1970.

Regional areas that are reliant on tourism are going to take a long time to bounce back from the effects of COVID-19. That is why a project like this sanctuary, which will bring in jobs both during and after construction, would be such a boon for the town. Given the sea sanctuary would be a world first, it would be a huge tourist drawcard. This new model would see the remaining dolphins live out their lives in a sea sanctuary and would align with community opinion, which is moving against dolphin and wild animal captivity. We urge the Committee in its report to recommend that the New South Wales Government provide financial support to continue the feasibility study into a sea sanctuary for the dolphins at Dolphin Marine Conservation Park. We would also like to see the park's decision not to breed converted into a legislated ban. Given a legislated breeding

ban would not impact on the venue, and is consistent with its plans for the future, we see no reason why such a ban could not be introduced. We also believe that legislation should be amended or introduced to ensure that the dolphins at Dolphin Marine Conservation Park are the last to live in an entertainment venue in New South Wales.

The CHAIR: I have a few questions. We heard from other submissions yesterday, particularly Animal Care Australia, about the definition of what is an exotic animal. Particularly from you, Ms Dolphin, I want to hear your thoughts on where you think the line in the sand should be drawn in terms of exotic animals? Also, I guess the definition of circus was also raised. From the proposed definition that was in a bill from two years ago, which has been cited in this hearing, there seems to be a bit of ambiguity and potential for other animals to be incorporated other than what has been mentioned here in submissions about lions and monkeys.

Ms DOLPHIN: Yes. I might take that on notice and give you some more information on that.

The CHAIR: I wonder, Mr Pearson, whether you could talk to us about—or I guess all of you—where you see the line in the sand in terms of exhibition and performance, because I think that was also a bit vague in the last witnesses, in that there still obviously needs to be an income drawn from this Dolphin Marine Conservation Park sea sanctuary. They even spoke about having visitors, and you have just mentioned tourism, so I am just curious as to what that looks like on the ground. You have people coming in, the sea sanctuary is not technically an exhibit, it is not a performance. How does that look and how do you see that garnishing enough income for them to maintain that sea sanctuary?

Mr PEARSON: That, obviously, is one of the major questions that the feasibility study would answer if it continued. It would actually go directly to that. What financial model would actually make that venue feasible? Would it require paying tourists? Would it be something that could just be purely underwritten by the State as an animal welfare piece of work? That is exactly the kind of thing we need to determine. In terms of the kind of activities that we would see as acceptable at the sanctuary, we certainly would not support anything which saw the animals being forced to perform for visitors. We certainly would not see it being viable or acceptable for them to have people swim in the sanctuary with them, as is currently allowed at Dolphin Marine Conservation Park. That would certainly be a red line for us.

As for exhibition, yes, we have artist renderings, which we are also very happy to provide to the Committee, which show that in a lot of places around the harbour foreshore of Coffs you would be able to see the animals engaging in the kind of behaviour that is more natural. In the same way that you can do that when you see dolphins jumping around at Bondi Beach or something like that. But, really, this is a reflection of reality. Ideally, we would like to see those dolphins living their life in the open ocean, but that is simply not possible for all the reasons you know, but this sanctuary is the next best thing. Again, it is better than what they are currently in now, with all due respect, at Dolphin Marine Conservation Park. As Ms Tait said in her opening statement, the recent assessment that was done by Dr Isabella Clegg was clear that their welfare would be improved by being moved to that sanctuary.

The CHAIR: You have obviously been working with the marine park on this concept. What is your understanding of the costings, not only the cost to build it, but also the ongoing cost? That is something we could not really get out of the CEO of Dolphin Marine Conservation Park. That is obviously something that the Government would need to consider going forward and looking at models.

Mr PEARSON: I agree. What we did was Action for Dolphins and ourselves commissioned Manly Hydraulics Laboratory to do some work on what that would look like to have a sea sanctuary in the Coffs Harbour area itself, actually in the harbour. What they came up with very clearly was that, for it to be safe for the dolphins, you would need a breakwater. That would be expensive, because breakwaters are; \$10 million is a number that was put down on the table. However, we have started to talk to other harbour users up there in Coffs as well. What we know is that the whole area is going to be undergoing some development. That is our understanding and that is a New South Wales Government initiative. Large areas of the foreshore need activation. They are currently not being used as much as they could be used and they could certainly be much more of a drawcard. What we would like to see is a process where the State Government says, "These are all of the things happening in the harbour. To be blunt, there is going to be a lot of concrete poured. There is going to be a lot of development happening already."

If you incorporate the sea sanctuary proposal into those other proposals, then you might actually find that you can share costs with other proposals being put forward. You might find that, while that number is a large one—let us be frank about that—if you look at it in terms of the amount of additional economic activity you could actually generate, it might not be so large and it might be a really smart thing to do. Again, I stress, this is why we are very clear. We are not asking you to just completely endorse the sanctuary. We are asking you to just say to the Government, "Yes, you should keep this feasibility study going so we can answer the question about whether

it is best for the dolphins, best for the community, how much it would cost and what is the model that would actually make it work."

The CHAIR: You have no idea in terms of ongoing costs, based on overseas examples?

Mr PEARSON: No. Again, it would be a world first. But, then again, it is also a matter of what you do with it. For example, you might have a basic model where it really is just the sea pen sanctuary. You might do something where nearby you have an education centre. It is all of those kind of things that might cost more. That might involve greater operating costs or greater capital costs. It really depends on what you want to do with it.

The Hon. EMMA HURST: Could I ask you to provide to the Committee that report that you mentioned from Manly Hydraulics Laboratory so that we can have a look at their cost breakings and their suggested costs?

Mr PEARSON: Obviously I will have to seek the approval of Action for Dolphins and Dolphin Marine Conservation Park, but I am sure that is fine. I would also like to provide the artist renderings as well, because I think it gives you an idea of exactly how much benefit it would be to that part of the harbour.

The Hon. MICK VEITCH: I am just going to continue with the line of questioning initially around the costings. Can I just say, Mr Pearson, I am reading the submission and your opening comments and I am glad you have acknowledged the employment contribution to the local economy, because in some of the evidence yesterday that was missing. Also, the way you talk about the future with the sanctuary, I think that is important. In your submission you talk about how it could also serve as a rescue and rehabilitation facility for wild dolphins that may be injured. Do we have an idea of just how many dolphins that would be? On an annual basis, how many dolphins are caught up in nets, fishing lines or whatever that would require rescue and rehabilitation?

Ms TAIT: Anecdotally, we have been in conversation with New South Wales Parks and the marine vet at Dolphin Marine Conservation Park and they have suggested it could be up to seven cetaceans a year that require rescue and rehabilitation.

The Hon. MICK VEITCH: What is the duration of the rehabilitation? I suppose it depends on an injury, but do we have a rule of thumb?

Ms TAIT: At the moment there is no rescue and rehabilitation centre that exists on this scale in New South Wales. At the moment they are running a small operation at Dolphin Marine Conservation Park. I cannot say for certain how long it takes to rehabilitate the dolphins at the park, though.

The Hon. MICK VEITCH: Yesterday we also heard from Dolphin Marine Conservation Park that they may be looking at another site. Are you aware of the proposal for the other site?

Ms TAIT: Yes, in Nambucca Heads.

The Hon. MICK VEITCH: Yes, that is it. Obviously a similar type of proposal around a sea pen arrangement. Is that correct?

Mr PEARSON: I think that is right.

Ms TAIT: Yes.

The Hon. MICK VEITCH: We also explored yesterday the transition period that would be required for the three dolphins at the moment. I cannot remember now whether that was with Dr Clegg or—

The Hon. EMMA HURST: Dr Clegg.

The Hon. MICK VEITCH: But clearly it will be a transition. Dr Clegg said that the existing facility may need to remain for a period of time in case there are issues with the dolphins transitioning to the new sea pens, if that were to occur. How long should that other existing facility remain, just in case?

Mr PEARSON: My understanding of what Dolphin Marine Conservation Park is talking about is that, you are right, the existing facility would be there. In the event that there was a massive storm approaching and they thought the safest thing to do would be to bring the dolphins back there for the duration of that event, and that is fine. But, also, when we speak to Terry Goodall and Duan March at Dolphin Marine Conservation Park, I think they see the existing venue being the one which is the focus of the more education and conservation part of the new model. You have the dolphins at the sea sanctuary, you have the existing venue there doing that new piece of work while also maintaining the pools in the event that they are needed. In terms of how long it would actually last, it can basically last indefinitely. Again, that is the great thing, because what are we employing there, 40 people or something?

The Hon. MICK VEITCH: Yes.

Mr PEARSON: We certainly do not want them to lose their jobs. That is not our intent. This new model means that we are not losing jobs. What we are actually doing is safeguarding them indefinitely, as far as we can see. Can I add one last point? Again, let us be clear about the time frames here. The youngest dolphin at Dolphin Marine Conservation Park is 11. If it lives as long as its dad, it will be there for another 40 years. We are not talking about a short-term proposition here. The next one is about 14. These dolphins can live for 50 or 60 years. We are really talking about a long-term proposition for Coffs Harbour.

The Hon. MICK VEITCH: I just want to go back to the definitions. We also heard yesterday one of the problems with definitions is that there are other exhibitions or enterprises that will get caught up. There was some questioning yesterday around country shows, agricultural shows. Some of the exhibitions that are there, you know, the chook displays and the—

The CHAIR: Reptile parks.

The Hon. MICK VEITCH: —yes, but also the educative reptile exhibits at the country shows. I just want to clarify your views on whether there is a definition to look at, other than the one we have at the moment that we are working with?

Ms DOLPHIN: Yes, I think it is good to have more clarity around that, because as far as HSI is concerned, we are opposed to the use of the animals for the entertainment aspect, particularly the species where it is very detrimental to their welfare if they are used for entertainment like that. Yes, exotic species and cetaceans particularly. Some of those other species are domesticated and they are used to being handled, so I think it would be on a species by species basis, or based on different situations.

The Hon. MICK VEITCH: Is there a model in another jurisdiction that has a legislated definition that we could look at?

Ms DOLPHIN: I can have a look at that for you and take it on notice.

The Hon. SAM FARRAWAY: Just to drill down on that, I pose the question to any three bodies. With an agricultural show, I am not sure if they still exist, but in recent times there have been trained racing pigs. For instance, as the Chairman highlighted yesterday, there was a reptile exhibit at a regional show. It forms part of entertainment, and there is an educational aspect to it, but just to try and get the view from the three bodies, what is your view more broadly? I know from your answer, which was a little bit grey, do you believe that it should be extended to reptiles at agricultural shows, or livestock, like goats, pigs, cats or dogs? They are all exhibiting, that is what they are doing. Some are for entertainment and some are for competition. More broadly, with some of the definitions and the reference back to the 2018 proposed bill by the Animal Justice Party, what is your view? How far should it go and how far should it extend?

Ms DOLPHIN: You raised the jumping pigs and things like that. I think things like that are taking it too far, because it is more than exhibiting. I think that can be an issue in terms of their welfare. I think on each occasion when you are ensuring that their welfare is not compromised, then that would be where the line would be drawn.

The Hon. WES FANG: How is their welfare compromised?

Ms DOLPHIN: For the jumping pigs, for example, they have to jump from a fair height. I would propose that would be a stressful experience for them and that would be something that they need to be trained to do. I should think that, given the choice, they may prefer not to do that.

The Hon. EMMA HURST: Ms Dolphin, if I can take you back. I can see that this is quite difficult to answer, because it is quite outside the terms of reference of the inquiry. I am going to take you back a little bit to the circuses and the use of exotic animals in circuses.

The Hon. SAM FARRAWAY: Mr Chairman, without trying to be difficult, before we move on to our next question from Ms Hurst, could we see if they have a reply to that? I think this was a concern that was highlighted yesterday. Yes, I specifically put racing pigs in there because it would be the most controversial, but what about, for instance, the reptile exhibitor who is actually there exhibiting as a paid event?

The Hon. EMMA HURST: Point of order: I think it is clear that this is really outside the terms of reference in regards to exotic animals. I think the question is being put over and over and over again. I think the witness has already answered this question multiple times.

The Hon. WES FANG: To the point of order: I have two points. One, this would be covered under the last point in the terms of reference, which is "any other related matter". Two, I actually still have some more questions about where the evidence was leading us and I think the Hon. Sam Farraway did as well. This side of the table has actually not finished our inquiry with the witnesses.

The Hon. EMMA HURST: As long as there is a fair share of time, Chair, because I am obviously conscious that the time will be used up on this one point rather than allowing all members to have a chance to ask questions.

The Hon. SAM FARRAWAY: I just think the other bodies, Mr Chair, should have been able to actually answer the question I posed without being cut off and then trying to move on very quickly to another point of the inquiry.

The CHAIR: To all of the points of order and the debate, I firmly believe it does relate to "any other related matters". Also, in the evidence being given or in submissions, if issues are raised, I think it is well within the Committee's remit to actually explore those issues, even if they were not necessarily part of the intended terms of reference for some people. But if it is offered and if it potentially goes to the issue as a whole, then I think it is worthy of being explored. I am conscious of having enough time. Mr Farraway, did you want to allow those other two witnesses to offer their opinion and then we can continue with your questioning? Or, if you are done, I will go to someone else.

The Hon. SAM FARRAWAY: I am happy. I would like to hear from them to see if they have an answer and then I am happy to move onto other questions. I just think we are on that point and then Ms Hurst cut in before they even had a chance to reply.

The Hon. EMMA HURST: As long as all members get a fair chance to ask questions.

The Hon. SAM FARRAWAY: I have only asked one question.

Mr PEARSON: I am happy to offer an opinion. I am afraid I am not aware of things like jumping pigs shows, but you learn something new every day, I suppose. That is what I have learned today. I would say that our organisation would be opposed to the use of any animal for entertainment purposes where they cause that animal distress. In the case of something like a jumping pigs show, yes, as Ms Dolphin said, I can imagine that would be stressful for the animal, or make it scared, to have to jump from a height. I can also imagine the presence of lots of people, lights and music, as I assume is also the case there, may also cause the animal distress. I am not aware of some of the other things you are talking about, but as a general statement of principle, no. Animals are not here just to entertain us, particularly in circumstances where that causes them distress.

Ms TAIT: At Action for Dolphins, our expertise is mainly with cetaceans, but I second what Mr Pearson and Ms Dolphin have said.

The Hon. EMMA HURST: Ms Dolphin, I will go back to the question I was about to ask you in regards to circuses. It has been argued that children find educational value, conservation value and cheap entertainment in circuses. What is your response to this within the Humane Society International?

Ms DOLPHIN: Yes. We do not feel that is the best way to display animals and, like circuses, to promote the notion that it is acceptable and enjoyable to exploit animals for entertainment. When they play no meaningful role in education or conservation, yes, we definitely oppose that aspect.

The Hon. EMMA HURST: Mr Pearson, my understanding is that when Bob Carr was environment Minister he made amendments to what is now the Biodiversity Conservation Act. Are you aware of what those amendments are and can you give the Committee a brief history on what changes were originally made?

Mr PEARSON: I cannot point to the specific part of the Act that was amended by Mr Carr, but my understanding is that it prevented the capture of dolphins for display and entertainment and that that was in response to the 1985 Senate inquiry.

The Hon. EMMA HURST: What changes do you think need to happen now? Obviously Australia is not involved in that capture. Ms Dolphin talked about Taiji and it is good that we are not in any way involved in that. What legislative changes need to happen now to actually close any loopholes?

Mr PEARSON: What we would like to see now is a legislated ban on the breeding of dolphins in captivity so that you do not actually have another generation held in entertainment venues. The question of which Act has to be amended, we are open to that, you know, which would have the most effect, which would be the easiest, but essentially that is what you need. You need to prevent another dolphin from being bred.

The Hon. EMMA HURST: Just going back to Ms Dolphin, you also mentioned the risk to human safety in your submission. Can you give us a little bit more detail about that? Yesterday we talked about the fact that a handler was actually killed by the elephant that was at Stardust Circus. I was wondering if you could talk may be a bit more globally on the issues?

Ms DOLPHIN: Yes, there have been numerous incidences over the years in Australia with circuses where trainers have been killed or injured. It is also a risk to the patrons, and that is something that needs to be carefully considered if they are going to continue.

The Hon. EMMA HURST: You note in your submission that over 40 councils in Australia have banned exotic animals for circuses. In your introductory statement you talked about a variety of companies that have stopped selling tickets to dolphin shows. I think in your submission you also mentioned a petition. How many signatures did you have on your petition on circuses?

Ms DOLPHIN: Yes, there were 10,000, and that was within New South Wales.

The Hon. EMMA HURST: Were they hand signatures?

Ms DOLPHIN: That was a petition that was put forward by the Lord Mayor, Clover Moore, at the time in 2001.

The Hon. EMMA HURST: In her role as MP or in her role as the Lord Mayor?

Ms DOLPHIN: As the Lord Mayor. HSI supported that petition, which had 10,000 signatures.

The Hon. EMMA HURST: Was it an online petition or was it something where people had hand signed it?

Ms DOLPHIN: Online, I believe.

The Hon. EMMA HURST: Do you feel that those councils, that petition and the companies making changes, do you think that is indicative of community expectations for change?

Ms DOLPHIN: Definitely. There was also a 2015 survey that found 68 per cent of Australians are concerned or very concerned about the use of exotic animals in circuses. Yes, this proportion is even higher in young adults, with over 75 per cent of Australians aged 18-25 being concerned about the use of exotic animals in circuses. The expectations from the community have been changing in that direction.

The Hon. WES FANG: Can I just ask, sorry, the survey that you have just referenced, where was that conducted and who by?

Ms DOLPHIN: The reference is McCrindle in—

The Hon. WES FANG: That is exactly the same survey that was survey that was referenced by the RSPCA and it has taken on notice to provide us with the data behind that.

The Hon. EMMA HURST: Which is good. In your submission you also advocate for a legislative phase-out of circuses. You have also suggested that during the time of the phase-out, to transition the animals or to rehome them in some way, that there be space requirement increases. Can you give us a little bit more detail about how you actually see this happening in practice?

Ms DOLPHIN: Yes, it would. We think that the animals should not have to perform at all, with immediate effect. We would like to see that ban in place straight away. I believe that, for instance some lions have already been moved to a facility called Zambi. So facilities like that where they can retire, where they will not need to perform, is how we would see it eventuating and they could be retired there.

The Hon. EMMA HURST: Yesterday some concerns were raised by members that if there were not the ability to move them into a sanctuary that the animals would be killed, or euthanased. Would you be supportive of government funding to help move and transition those animals into a sanctuary, or a phase out period so that the animals would not have to be euthanased?

Ms DOLPHIN: Definitely, yes. We believe that they deserve the opportunity to live in the most natural environment possible and if the Zambi Wildlife Retreat can offer that environment, then that would certainly be a welfare improvement for them.

The Hon. WES FANG: For a point of clarification, that was somewhat of a loaded question. When you are asking an organisation whether they are in favour of government funding to support X, I do not know any organisation that will say no. Is that not a loaded question? Can you conceivably see—

The Hon. EMMA HURST: Is that not a question for the Chair, rather than the witness?

The Hon. WES FANG: Can you conceivably see a point where you would say no, we do not wish government funding to support X?

The Hon. CATHERINE CUSACK: I do not think that is a question.

Ms DOLPHIN: I had the option to say no.

The Hon. EMMA HURST: I do not think that is a question. I think it might be a question for the Chair. If you have a concern with my question you can bring a point of order.

The Hon. WES FANG: I guess I was more curious as to whether—

The Hon. EMMA HURST: It might be a reflection.

The Hon. CATHERINE CUSACK: I am just a bit worried about the time, that is all.

The Hon. WES FANG: I see the point.

Ms DOLPHIN: I had the option to say no, and I chose to say yes.

The Hon. WES FANG: I am shocked.

The Hon. EMMA HURST: I have two more questions. I have a question for Ms Tait; some have argued that a ban on breeding is irrelevant given the commitment that has been made by Dolphin Marine Conservation Park [DMCP], but you disagree with that. Can you explain why?

Ms TAIT: We agree with the current internal policy at DMCP to no longer breed; however, there is always the possibility that their management can change, and indeed it has changed in the past couple of years. A legislative ban would ensure that the new management would also not be able to continue breeding their dolphins.

The Hon. EMMA HURST: I might go to Mr Pearson; do you know if there is much support in the area from the local council and various businesses? You talked a lot about tourism in the area, have you looked into that a little bit further?

Mr PEARSON: Certainly. I was up there recently with Ms Sosnowski from Action for Dolphins and we met with the business chamber up there. We met with representatives of the local council and they were all very supportive, because I think they recognise that for the local region it is a win-win. It is just a win-win. Have we gauged public opinion up there? No, we have not. But I would be surprised if we did not find support for it, certainly for the people who rely on the employment at the venue and the economic activity that it brings. I think also there is a lot of affection up there for those dolphins and I would like to think that most people in the region would like to see them go to a sanctuary and to see the venue continue on in another form into the future.

The CHAIR: I have a question about the breeding ban. Excuse my ignorance but I am not in any way an expert in the mating habits of dolphins, but if we look to the future and say the sea pens are created and we are bringing in rescued dolphins, what is preventing a couple of those rescued dolphins naturally breeding, and what does that mean for the legislative ban? Obviously the owners of the sanctuary have not necessarily initiated it but it is something that has happened potentially naturally. How does that work with that legislative ban and given that you have all stated that you want animals to live as close to a normal life as possible, and that would obviously having the ability to breed in their own right?

The Hon. CATHERINE CUSACK: That was Dr Clegg's evidence yesterday. We did receive evidence yesterday exactly to that point.

Mr PEARSON: The first thing that I would say is that the three remaining dolphins are siblings, so they obviously are not going to breed.

The CHAIR: I am more talking about the future when we bring rescued dolphins in.

Mr PEARSON: A bit of context on that. The idea of the sanctuary also providing a rescue rehabilitation function was actually Dolphin Marine Conservation Park's. I remember the vet there, Duan March, raising it with us first when we were up there visiting the venue. They would actually have a separate section. We understand that you would not just take a rescue rehabilitation dolphin and put it in the same place with the other dolphins. There are biosecurity issues there as well, is my understanding—Ms Tait may want to add more on that. That would just be a natural barrier between them being able to breed, in answer to that specific question.

The Hon. CATHERINE CUSACK: I want to ask the Humane Society about your submission. I have the utmost respect for your organisation in the range of work that it does.

Ms DOLPHIN: Thank you.

The Hon. CATHERINE CUSACK: In the submission, in terms of stakeholder groups and advocacy work, I want to check a couple of things with you. One statement here is:

Many captive dolphins are regularly administered medication for ulcers or antidepressants to alleviate the stress from living in such an unnatural environment.

I want to question that, whether you are aware that that is going on in Australia? My understanding is the use of—I think the footnote indicates it is Diazepam—is for when you are trying to transport them or sedate them for some other caring purpose. Can you clarify that?

Ms DOLPHIN: Yes. In Australia it is difficult to specify exactly what is being used and what is not being used because there is quite a lack of transparency in that area. We do believe that drugs like that are used. I could not specify in what parks exactly.

The Hon. CATHERINE CUSACK: Another statement in your submission which I thought sounded a little harsh concerned the wild-caught dolphins, the Japanese activity you referred to earlier, that showcasing these animals in tanks indirectly endorses the controversial hunts. The submission states:

The Taiji dolphin hunts are likely to continue for as long as there is a public demand to see captive dolphins, and the Coffs Harbour marine park is helping to fuel that demand.

It does seem a bit rough on the Coffs Harbour marine park.

Ms DOLPHIN: Yes. I have respect for—they have done a lot of rescue rehabilitation work which we obviously respect that. But showcasing dolphins in captivity does showcase that whole industry. So when an Australian goes to that park and sees them treated well there, then they might go overseas and see another park that has been supplied with wild-caught dolphins and they would not be aware of that. So I believe that when dolphins are—the captive dolphin trade is supported, it is still supported by other marine parks as well, because they are supporting that trade.

The Hon. CATHERINE CUSACK: I guess a really key statement here, and I thank you for it, is:

Marine mammals are best protected by cleaning up and protecting their habitats, and truly appreciating them means being fortunate enough to encounter them in their natural environment, in the wild, where they belong.

I must say I have had the good fortune to travel to wilderness retreats and see theirs in their habitat, those sorts of things, really expensive, really elite activity and a great fortune to me, and I would say less than 1 per cent of Australians would have access to those opportunities. So I guess for the other 99 per cent, and also for children who at that cognitive learning stage, this issue of you need to see them in the wild or not at all, is a really key one. Clearly their families, who are taking them to circuses and zoos, are eager for them to have those experiences. We had expert witness yesterday talk about human-animal interactions and how they are being diluted and stripped away and that is to the detriment of our understanding of animals as well as to our humanness, our civilisation.

Ms DOLPHIN: Yes, I take your point.

The Hon. CATHERINE CUSACK: It is a vexed issue to me.

Ms DOLPHIN: In my opening statement I mentioned how a lot of children love dinosaurs but obviously no child has ever met one or seen one up close or at all in real life. I do not think that denying children of an experience would be detrimental to them in terms of how keen they would be on preserving that species as they grow up. I think a lot of us are very fortunate and get to see animals in the wild. That is our privilege. That is where those wild animals belong and taking them out over that natural environment is unnatural for them. And when they cannot be granted the best care they should be allowed to stay in the wild. I think people need to respect that that is where they belong and that there are other ways to admire them.

The Hon. CATHERINE CUSACK: Sure. It just seems so absolute and to dismiss the idea that there is any educational benefit. Can I ask, do you also apply this logic to zoos? Like Taronga Zoo and Sydney Aquarium?

Ms DOLPHIN: If there is a conservation benefit then we are supportive of that but we are not supportive of the entertainment side of things.

The Hon. CATHERINE CUSACK: Is education a conservation benefit?

Ms DOLPHIN: Not to the animal.

The Hon. CATHERINE CUSACK: Maybe to the species though.

The CHAIR: Is education not also entertainment? Coming from a teacher background, education is fun. I think there is the concern of a blurring of the lines when it comes to the definition of what is entertainment and what is education is interchangeable.

The Hon. EMMA HURST: Do you want to give an explanation of what you meant by entertainment? I think Mr Pearson talked about shows specifically in regards to entertainment.

The Hon. CATHERINE CUSACK: I just feel it is important because this is why it is a permitted activity in this State at the moment so it is actually a part—

The Hon. EMMA HURST: It would be good to get an idea of what you mean by entertainment.

Mr PEARSON: Ms Cusack, I understand what you are saying about that. Again, we never want to in any way impugn what the Dolphin Marine Conservation Park is doing in the sense that they try to provide an education component to what they are doing, but if I wanted to educate my child about dolphins then there are many ways I can do that which do not have to involve a captive animals. A documentary, for example, is one way I could do it and I would argue that a documentary which shows the animal in its natural habitat, engaging in natural behaviours with an explanation is actually probably going to be of much more educational benefit. When you talk about, "Does it have to be so absolute?" Again, the problem is when you say there might be an educational benefit. even if we can define an educational benefit of keeping a dolphin in captivity, that incredibly intelligent animal has to live in captivity for 50 years to provide that benefit; a benefit that can be provided in many other ways that do not involve keeping an animal in captivity.

Ms TAIT: Could I just add to that as well that all along the east coast of Australia it only costs around \$30 to go out on a boat to see dolphins out in the wild, which is competitive if not cheaper than going into a marine park.

The Hon. SAM FARRAWAY: Just to follow on from the educational aspect, we heard from the Dolphin Marine Conservation Park that they have been able to provide specialist training to over 120 veterinarians from that park. They have been able create and develop a syllabus and a specific program that is presented to over two and half thousand students per annum. How is that not a benefit and educational? How is that not in essence conservation in itself?

Ms DOLPHIN: If it were set up as a rescue facility and they had rescued cetaceans there then they could still use it at the educational facility for those people as well.

The Hon. SAM FARRAWAY: I have a couple of questions for you, Ms Dolphin. You note in your submission:

There were 131 incidents in Australia where members of the public or circus workers were harmed between 1863 and 2001.

Proportionally, I would say that that is a very low number. Can you tell me how many incidents there have been since 2001 to your knowledge?

Ms DOLPHIN: I would have to check that for you.

The Hon. SAM FARRAWAY: Would you agree that from 1863 to 2001 to have 131 incidents is by all definitions proportionally a very low percentage.

Ms DOLPHIN: Well, it is still that they would not have happened if they were not there.

The Hon. SAM FARRAWAY: You will not have a car crash if you do not get in a car.

The Hon. EMMA HURST: Ms Dolphin, is your argument—

The Hon. CATHERINE CUSACK: A lot of people died of snakebites in the meantime.

The Hon. SAM FARRAWAY: I will try to get through the questions if you are happy to take that on notice. You have images of Stardust Circus from their website on page 2 of your submission and you note that it is from their website. I wanted to note when were these photos taken, which is not noted, because I would not think they were from their website these photos of the monkeys from Stardust Circus in New South Wales and also the lions at Stardust Circus in New South Wales because it is not referenced where the photos are from, when were they taken and who took them.

Ms DOLPHIN: I can get you the date from when they were taken.

The Hon. SAM FARRAWAY: And who took them?

Ms DOLPHIN: It was anonymously taken.

The Hon. CATHERINE CUSACK: Okay, sorry, can I just clarify, are you absolutely certain that they are photographs of what they purport to be if they were submitted anonymously?

Ms DOLPHIN: Yes.

The Hon. CATHERINE CUSACK: How can you be certain?

Ms DOLPHIN: It is by somebody who did not want to be credited.

The Hon. CATHERINE CUSACK: So the source is known to you.

Ms DOLPHIN: Yes.

The Hon. CATHERINE CUSACK: And you are happy to attest to the credibility of the photos?

Ms DOLPHIN: Absolutely, yes. I can give you the date that they were taken.

The Hon. WES FANG: You are taking the date of the photos on notice, is that correct?

Ms DOLPHIN: Yes.

The Hon. WES FANG: Thank you.

The Hon. SAM FARRAWAY: Mr Pearson, not in anything official that the Committee has received but in personally knowing people in the Coffs Harbour electorate and the member for Coffs Harbour being a colleague of mine there has been a lot of talk around the Coffs Harbour community. I am glad you have said that \$10 million because that is what is being said, but in conversations I have had—and none of it is out in the public sphere or verified because a feasibility study has not been done—but there is a very good chance that to create the sea pen and the sanctuary in the harbour that the cost would far outweigh \$10 million dollars. So I would say to you, considering the pandemic and all things considered, and I know you have a view on the Marine Park, but at what point does the cost outweigh the benefit here?

Mr PEARSON: Mr Farraway, again, that comes back to the feasibility study and that is why we are very clear about what we are asking for your support for here. It is for that.

The Hon. SAM FARRAWAY: Does your organisation have a figure in mind? Does it accept that there has to be a return or is there a cost that will essentially outweigh the benefit to the State of New South Wales?

Mr PEARSON: It is hard to know without a figure on the table. What we would certainly say though is, to pick up on the point you made about the fact that we are in a coronavirus situation, is that as we get out of this crisis there are many voices making the point that we will need major public works programs, major infrastructure programs and particularly in regional areas like Coffs Harbour projects like this are exactly the kind of thing you would think would be helping the community rebuilt and get back on its feet. How much is it going to cost? It may cost more than that, that is absolutely right. The option that I know the Dolphin Marine Conservation Park is looking at in a different location may cost less. As I said before in my statement, if we can find a way that we can merge the various proposals going on at that harbour at the moment we may find that the cost is reduced even more substantially. As for the figure, no. I cannot point to a figure and say at that point we do not think it is worth it at all, which is exactly why we are saying at this point in time we are just seeking your support for the feasibility study which will hopefully provide us with the kind of numbers and the kind of data you were talking about so that we can then make decisions like that.

The Hon. SAM FARRAWAY: Thank you. Back to Ms Dolphin, in your submission on page 9:

Many of the captive dolphins and whales have a shorter life expectancy than others of their species who still live in the wild.

You are referencing whales.org and that is fine, I have checked the reference. Calamity and Bucky that were at the marine park, we have heard evidence and in the submissions that actually in captivity their lives were significantly longer than what is expected in the wild, so that statement, really based on specifically the Dolphin Marine Conservation Park, is not actually accurate, is it?

Ms DOLPHIN: Yes, specifically for that marine park that would be the case because they would have had veterinary attention that they would not have had in the wild.

The Hon. SAM FARRAWAY: So a conclusion that could be drawn is that that particular park in this State—the only Park—that actually does a very good job at conservation. It is a very good job for the care of dolphins in living in captivity in general, does it not?

Ms DOLPHIN: Perhaps.

The Hon. WES FANG: It could be an argument to build more.

The Hon. EMMA HURST: I guess the question could be taken more broadly to other members in the panel: Is age and the lifespan of an animal in captivity the only indicator of the animal's welfare in captivity?

Ms TAIT: No, certainly not. And, in addition, you also have to look at the high infant mortality rates in captive environments which are very prevalent. The RSPCA report from last year found that more than one in 10 dolphins born die before the age of one year and that is a very important point to remember.

The CHAIR: How does that compare to the wild?

The Hon. WES FANG: That is what I was going to ask.

The CHAIR: Just for comparison.

The Hon. CATHERINE CUSACK: It is higher mortality than the wild.

The CHAIR: I imagine so. I am just wondering how high.

Ms TAIT: I would have to take that on notice and check the RSPCA report.

The Hon. SAM FARRAWAY: Back to Ms Dolphin—I am not picking on you it is just that all your bits stuck out straight away to me in your submission. On page 4:

There is nothing educational about watching a lion balance on a small table or jump through a hoop.

I get what you are saying with that statement but we have heard evidence and I think questions may have been taken on notice from those in the circus industry about the value in engagement, especially when they go on tour, when they go on the road, especially through regional areas. I have seen Stardust come through and they set up and do multiple shows essentially. And to take on Mr Pearson's comment about engagement such as through a park or a documentary on television, the argument would be said that that is not necessarily true because the market itself is dictating that. For instance, we heard from Stardust Circus that when they go through—and I will use the example of where I live in the central west of the State—they will literally sell out all of their shows. They will have to extend their shows longer because of demand. One would say it is the market. We talk about community expectation and there definitely is one there around the way circuses should conduct themselves, but all in all, clearly they are meeting that expectation in the market otherwise they would not have anyone turning up at shows, would they?

Ms DOLPHIN: But it is not portraying what that animal really is. A lion in the wild is completely a world apart from a captive lion jumping through a hoop.

The Hon. SAM FARRAWAY: But for many Australians, especially in regional areas, I would say that may be as close as they get to education around a lion or to seeing a lion up close, or monkeys or whatever the exhibit may be. If it is done in such a way, isn't that itself an educational aspect? Whether they agree with the way the animal is portrayed, actually seeing the animal itself is far more interactive than watching a documentary because, let us face it, it is probably going to be hard to get the next generation to sit down and watch the documentary but they will go to a circus. If a circus conducts itself within community expectations, is not that a good educational aspect?

Ms DOLPHIN: I do not think it would be because it is educating them that it is fine to exploit the animal so it is not a positive way to educate a child. I have a daughter and I would not take her to a circus because I do not think it is right for them to think that is an acceptable way to treat an animal.

The Hon. EMMA HURST: Ms Dolphin, just following on from Mr Farraway's question, I think you mentioned in your submission the use of holograms that have been done overseas so that similar things can be done but with the animal entirely removed. Can you tell us a bit more about those projects?

Ms DOLPHIN: Absolutely. In China and Japan and other countries in Asia as well there is a growing movement towards it. There is one company called LightAnimal and they are using a hologram life-size interpretations of cetaceans and other animals. It is a very interactive experience and those types of parks are starting to grow and we are seeing more of those in other countries as well. It is definitely an area that is getting a lot of support and popularity from consumers because their expectations are changing.

The Hon. EMMA HURST: Mr Pearson, there is been a little bit of talk about this worldwide shift, people's perceptions are changing in regards to the use of these animals in entertainment and globally there is already some movement—I think you mentioned Canada, Ms Tait. Are there other areas where legislation has already banned the use of cetaceans in captivity, particularly for entertainment? And what does that mean for Australia on a global scale if we fail to follow these global trends?

Mr PEARSON: There certainly are. If I may it would be good to read onto the record that countries that have banned the keeping of cetaceans in tanks for entertainment purposes include: Bolivia, Chile, Costa Rica, Croatia, Cyprus, Greece, Hungary, India, Slovenia, Switzerland and, as you said, Canada. A number of others have introduced standards so strict that it is nearly impossible to keep them and that includes Brazil, Luxembourg, Nicaragua, Norway and the United Kingdom. I think New Zealand is also in a similar situation. I think what it really shows is that globally we are seeing people recognise that keeping an animal this intelligent in captivity for such a long period of time solely for the purposes of entertainment is really hard to justify. There are a lot of other ways you can experience dolphins, such as in the wild. There are certainly a lot of other ways that you can learn about dolphins without inflicting years of captivity on an animal.

Ms TAIT: I will also add to that that marine parks around the world are changing their own policies so, for example, documentaries such as *The Cove* and *Blackfish* have raised awareness about this. SeaWorld in the United States have stopped displaying their orcas and we have seen that here in Australia with the Dolphin Marine Conservation Park moving away from the older entertainment style model into the educational not-for-profit rescue and rehabilitation. It is also following what is actually happening within the industry.

The Hon. EMMA HURST: Am I right to think that Victoria has also put up legislation here in Australia as well?

Ms TAIT: That is my understanding, yes.

Mr PEARSON: Yes, that is right.

The Hon. EMMA HURST: And you know anything about how they ended up phasing out this industry in Victoria?

Mr PEARSON: Could we take that on notice and come back to you? I do not know the exact mechanism by which they did that.

The CHAIR: Yes, and that takes us to the end of our time. You did take questions on notice so the Committee secretariat will be in touch with the ones that you owe us and how long you have to respond. Thank you very much for coming in and giving us your insights.

(The witnesses withdrew.)

(Short adjournment)

VERNE DOVE, Founding Director, Australian Institute of Marine Rescues and Field Veterinarian, Sea Shepherd Conservation Society, before the Committee via teleconference, sworn and examined

INGRID VISSER, Founder and Principal Scientist, Orca Research Trust and whale-rescue.org, before the Committee via teleconference, affirmed and examined

ROSEMARY ELLIOTT, President, Sentient, sworn and examined

The CHAIR: Welcome to the next session of the hearing. We have with us in person Dr Rosemary Elliott and via teleconference we have Dr Verne Dove and Dr Ingrid Visser. We will proceed to opening statements from the three of you, if you would like to give one. I will start with Dr Elliott.

Dr ELLIOTT: Thank you. As long ago as 1985, the key recommendation of the cross-party Senate Select Committee on Animal Welfare report on captive cetaceans was that the keeping of Cetacea should eventually be phased out until further research justifies its continuance. I have seen no such research. To the contrary, the scientific evidence overwhelmingly supports prohibiting their breeding and use for exhibition. The literature documents the debilitating eye conditions and respiratory, metabolic and gastrointestinal diseases; it documents the injuries inflicted by other dolphins; it documents the rostrum and teeth damage; and it points to the stress, frustration and boredom of such far-ranging animals confined to a tank, well divorced from all the stimuli of their natural habitat. Not for them the foraging, hunting, travelling, deep diving, surfing, porpoising, echolocation and engagement with a number of different dolphins according to the context, whether it be rest, travel, socialising or foraging. Instead, we witness the sad, repetitive circles swum in the tank or the gnawing of the tank's side. For highly intelligent animals with complex social structures who would travel tens of kilometres in their home ranges in the wild, the tank is a cage. Stress and boredom prevail—and why? So someone may exploit them for profit.

Dolphins did not evolve to be kept for public exhibition. The cross-party Senate select committee noted the behaviour displayed by these captive animals was so different from their natural behaviour that there was now little scientific or educational justification for keeping them captive. Thirty-five years later, nothing has changed. This confinement is unconscionable. Whose interests are we serving? Not those of the animals; nor that of the public, whose attendance at marine parks in Australia has so dramatically dwindled. The standards for exhibiting bottlenose dolphins in New South Wales—promulgated under the Exhibited Animals Protection Act 1986—fail dolphins and their welfare and thus the public interest. The Act was enacted coincident with the Senate committee report, yet the standards were written to regulate an existing industry rather than starting from the premise of considering what the animals actually need. Even the simple premise went unconsidered that the more broad-ranging the animal, the more inimical to its welfare is captivity and confinement.

Sentient advocates a prohibition on the breeding and keeping of cetaceans for exhibition in New South Wales, save for the release of existing captive animals to a genuine open sea sanctuary. This will require government funding to complete a feasibility study and establish, with independent oversight to ensure there is no breeding or public exhibition involving dolphin shows or swimming with dolphins. We find a parallel in the breeding and exhibition of exotic animals for circuses. This should be immediately prohibited in New South Wales for all exotic animals, including big cats, elephants, pinnipeds and primates. These animals should be rehomed to wildlife sanctuaries, where their welfare needs can be more appropriately met. Circus environments can never meet the behavioural, physiological or social needs of exotic animals. No amount of enrichment or compliance with standards will change this, any more than they will for dolphins in captivity. The key question is this: What do cetaceans and exotic animals experience when subjected to lifelong confinement in a tank or small enclosure as part of a travelling circus?

We already know the answer to this, based on comprehensive animal welfare assessments that include the animals' mental state; comparing how much time they spend on highly motivated behaviours in captivity versus in the wild; and, where the science is lacking, by invoking the precautionary principle of affording animals the benefit of the doubt. For many of us witnessing such confinement, the reaction is one of sadness and shame. Keeping these animals captive to perform for paying crowds teaches us nothing about their species but is a sad indictment on our own. Animals have inherent natures from which arise both behavioural and affective needs. We must respect and accommodate these to ensure that they can have lives worth living. This is increasingly what the community expects. Sentient, the Veterinary Institute for Animal Ethics is an independent veterinary association dedicated to promoting animal welfare and ethics and we have no financial or other conflict of interest with any industry. Thank you.

The CHAIR: Thank you. Dr Verne Dove?

Dr DOVE: I am here today with a very unique skill set, being a dolphin veterinarian—one of only a handful found in Australia—with extensive experience in dolphin stranding, dolphin behaviour and risk assessment. Whilst I do not condone breeding cetaceans in captivity, I do endorse rescue and rehabilitation and appreciate that there are non-releasable animals that do require facilities that offer long-term care. I support the idea of a genuine sea sanctuary. However, there needs to be transparency and collaboration. Of utmost importance to exhibited dolphins is their animal welfare in captivity. In order to achieve the best animal welfare standards, management requires a minimal level of understanding of dolphin behaviour and social structure. For example, having males and females grouped together for years on end in captivity is very unnatural. It can lead to aggression, as well as other stereotypical-type behaviours. For example, this can be seen as very aggressive behaviour: tail-slapping the pool edge over and over and evidence of aggressive interactions with other dolphins.

Lack of understanding of dolphin husbandry is also a welfare concern and brings to light an issue that I see in a private park with there being animal management decisions made by a management and board of directors who may have no training in animal husbandry or care. Decisions that are financially beneficial to the company may actually compromise the health of an animal. This raises two important issues: transparency and collaboration. Transparency with the care of dolphins in captivity is essential, and I believe that there should be an overseeing scientific body in order to ensure the best care and practice is given to each individual animal. In addition, collaboration between experts should be encouraged for the welfare of the dolphin. One of the most concerning issues at hand is the current continuing status of the remaining dolphins.

As you may be aware, the Dolphin Marine Conservation Park [DMCP] has lost three dolphins in the past few years, two of which have happened recently. Bucky died of cancer and I was recently informed that Calamity died of the same cancer. With this new information comes new questions. I have not been privy to necropsy reports, nor the pathology reports on the underlying aetiologies of both cancers in these dolphins—again, stressing the importance of transparency. This information is essential to assess if there was a viral component—like dolphin papillomavirus, for example—that caused the cancer in both animals. If this is the case then the other dolphins also need to be assessed, as carrying a contagious disease could jeopardise the translocation to the sea sanctuary, with potential infection spreading to wild dolphins. In order to assess whether these dolphins are even candidates for a sea sanctuary, their disease status needs to be fully ascertained and a complete risk assessment carried out to ensure no risk to wild dolphin populations, particularly as the two proposed areas for a sea sanctuary both have resident dolphin groups that are frequently encountered.

The dolphins are considered sentinels of their environment. Two dolphins recently dying may suggest an underlying issue with regard to their husbandry, their environment, their stress levels or their immunological status, which warrants further investigation and which may further complicate the success of a translocation program to a sea sanctuary. Let us assume that the three remaining dolphins are disease free and good candidates for release into a sanctuary. There are then a number of factors that need to be addressed. Dolphins in captivity for extended periods are institutionalised. They do not like change and it takes a lot of training to untrain the learned behaviour that they have. That said, it may take a number of years to condition these animals for the move to a sea sanctuary. To do so effectively would require collaboration from several dolphin experts.

Finally, I see the role of captive facilities such as DMCP, with a marine hospital, playing a pivotal role in the rescue and rehabilitation of stranded dolphins and other marine wildlife. With only two facilities that hold dolphins in Australia, the infrastructure and expertise are essential to help with wild animals that may strand, particularly as a result of human anthropogenic causes. Without such facilities, these animals are left to be euthanised on the beach rather than put into care. I definitely see a role not only for stranded dolphins that need short-term care before release, but also for stranded dolphins that are unreleasable and require long-term care. This brings my opening statement to a close. I welcome any questions from the Committee.

The CHAIR: Thank you. Finally, Dr Ingrid Visser, do you have an opening statement?

Dr VISSER: Yes, please. Thank you, honourable Committee members, for the opportunity to speak regarding your inquiry. Within my report and with my statement today, I am focusing on your terms of reference that specifically apply to cetaceans in captivity. As a scientist who has dedicated my life to researching cetaceans both in the wild and in captivity, I am speaking today to ask that you introduce a ban on keeping cetaceans in captivity in New South Wales—with a potential sunset clause in place for the three dolphins currently held there—and a ban on the breeding of cetaceans for exhibition. My written submission goes through the numerous reasons why. In my statement today, I wish to outline some of the salient points to place them in the framework of comments made yesterday and some of the questions raised today.

Scientific evidence continues to demonstrate that captivity is detrimental to the health of cetaceans and to their welfare, and that their biological needs cannot be met even in the most modern and sophisticated of facilities. For example, Dr Clegg spoke yesterday and she stated that she had conducted a welfare assessment

called C-Well on the dolphins held in New South Wales. She found that there were a number of aspects of concern, including the dolphins' teeth, which she had stated were damaged due to the toys—which in and of itself is a major conundrum. As I would ask, who could consider it good welfare to provide toys that are known to consistently create long-term and irreversible injuries such as tooth damage? But Dr Clegg also reported on eye pathologies and abnormal behavioural issues—that is, stereotypies. She then went on to state that such issues are not unique to these dolphins, and I would agree with her 100 per cent.

It is appropriate to mention at this point that as of December last year, I have now visited more than 40 facilities keeping cetaceans in captivity. These were in 17 countries and consisted of 15 different species and more than 730 individuals. However, I have yet to find that unicorn cetacean—that is, the individual that did not show the issues associated with being kept in captivity. Such a broad spectrum of facilities and species, and yet no unicorn cetacean. This illustrates perfectly how these animals do not thrive in captivity. If you had 730 dogs kept in concrete boxes around the world and they all showed captivity issues, it would be a clear case of compromised welfare. I am uncertain how it could be found otherwise for cetaceans. However, I also note that Dr Clegg's model, although it is to be commended as a start in cetacean welfare assessment, specifically does not include assessing a number of aspects, such as the issue of aggression between captive dolphins.

Dr Clegg mentioned to you that having more space would allow the dolphins to avoid each other—in other words, to escape aggression—so she does recognise that this is yet another issue for captive cetaceans, even if she does not assess it. Additionally, it is worth keeping in mind that dolphin shows around the world are driven by food. Shows are not done without it. Therefore, it is not a choice for the dolphins to participate in shows, as some speakers would have you believe. Fixation on trainers who provide that food was one point that Dr Clegg made to you yesterday. With regards to legislative or regulatory action, I noted that Mr Goodall has stated that the policies of the Coffs Harbour facility have changed a number of times during its history. Based on that statement alone, one might ask what prevents a policy change from happening again, and then also consider what might happen if Mr Goodall and his team—who currently have shown concerns over the welfare of the dolphins and wish to move them into a sea pen—were no longer in charge. As the laws currently stand, there would be no protection for these dolphins should management policy revert back to earlier models. These dolphins could once again be bred, used in shows or for swim-with programs or traded, perhaps even internationally.

But what if the dolphins were shipped to Sea World, where breeding and shows with tricks are a standard part of the business model? How would they be impacted? At Sea World, I have seen horrific injuries and extreme stereotypies, as well as aggression, in the dolphins held captive there. They are frequently bred and recent documents have revealed that over 100 cetaceans, polar bears and seals have died at that facility. Yet there is no transparency for watchdog organisations in order to provide checks and balances. Therefore, I would respectfully request the Committee that, if the dolphins were to be moved to another facility, any such transfers would require a non-negotiable caveat of no shows, no swim-withs and no breeding. It is worth noting here that no breeding is a part of current standard husbandries and welfare maintenance for cetaceans in captivity worldwide. It is done through a variety of methods, including contraceptives.

The Coffs Harbour dolphins Jet and Bella are brother and sister, and Zippy and Bella are half brother and sister. Under the claims made by some of the speakers yesterday, breeding should be allowed to occur between these dolphins despite them being related. I would also query why someone would call it the right of a captive cetacean to breed, whilst ignoring all the other rights of the individual, such as the right to exist without teeth or eye injuries. Although these dolphins were born in captivity, that natal affiliation does not reduce the welfare needs of the animal nor reduce the species-specific or biological requirements. Any claims that these animals are domesticated ignores the evolutionary history of the species and the perverse twisting of the framework of the concept of domesticity, while ignoring that they cannot perform basic natural behaviours when these dolphins are kept in these small tanks.

In closing, I would like to focus for a moment on the issue of public sentiment and its support for a ban on captive cetaceans and, as the terms of reference state, "with consideration of community expectation". That community expectation is high. I have read every one of the submissions to this Committee. I have observed that there were more than 270 personalised submissions and over 1,700 pro forma submissions. All of those pro forma submissions were against exotic animals in circuses and/or against the keeping of cetaceans. Of the personalised submissions, only seven specifically stated that cetaceans should be kept in captivity in New South Wales. Perhaps of relevance is that of those seven, three were from the animal entertainment industry itself, including Dolphin Marine Conservation Park. That leaves five submissions from members of the public who wish to see cetaceans kept in captivity. That is in stark contrast to all the other submissions that support the ban—that is nearly 2,000 submissions. The social licence for this type of animal entertainment has reached its use-by date. I once again thank you for the opportunity to talk today and I welcome any questions that you might have.

The CHAIR: Thank you. I have one question for you, Dr Dove. You spoke about the disease in those dolphins. To your knowledge, there had not been a risk assessment done in terms of the suitability of the dolphins to be transferred or translocated to a sea pen. The testimony we heard yesterday suggested the dolphins had been assessed for translocation to a sea pen and they were deemed good candidates. I just want to confirm that you have not seen any assessment of their suitability for the sea sanctuary?

Dr DOVE: No, I have not received any risk assessment about their suitability. Also, this disease status that I bring to light now is only relatively new, because Calamity only died very recently. I do not think that that has been factored in, because as far as I knew they thought Calamity was actually quite healthy. I do not know that they knew that she had this underlying disease condition.

The CHAIR: Have you asked for a copy of this assessment or a copy of the report into Calamity?

Dr DOVE: No, I have not. I honestly did not know that there was a risk assessment done on the health status of the animals towards the sea sanctuary.

The Hon. EMMA HURST: That is Dr Clegg's report that we just discussed before, Chair, just to clarify.

The Hon. MICK VEITCH: My question is to Dr Dove. Your submission raises an issue that most other submissions have missed with regard to the welfare of the dolphins. It relates to disease spill over—essentially, disease from humans spilling over into the cetaceans at Coffs Harbour, particularly herpes. Can you explain to the Committee how that occurs and what is the capacity for that to then be transferred to other dolphins in the wild?

Dr DOVE: In my submission, I am concerned about practices that they have at the park in Coffs Harbour, including kissing the dolphins and kissing seals. Wild animals all harbour certain diseases and there are known diseases that are zoonotic, so they can cross over from animals to humans—as we very well are aware of right now, with this coronavirus pandemic. My concern with that sort of behaviour with animals like dolphins that are on exhibition is that there is always this potential for disease crossover from animals to humans—especially doing things like that, that are unnatural behaviours that you would not see with wild dolphins. You would not see people kissing dolphins in the wild. For me, there are two things: It is an unnatural behaviour and there is a risk not only to the dolphins but also to humans. It is not to say we do not know if there is a human herpes virus or a dolphin herpes virus that can cross those boundaries. It has certainly been shown in the literature that there are herpes viruses with very similar homology to humans, so the potential for that definitely exists.

But as we have seen with this coronavirus, viruses mutate and that can happen at any stage. It is just a risk that needs to be averted instead of allowing people to kiss these animals. That is from my submission as far as at the actual park goes. With what I am saying now for the sea sanctuary, that is a completely different scenario where we have potentially got a disease situation happening in the dolphins—particularly if both these dolphins have died from the same virus that has induced this cancer. Papillomavirus is known to do that, so that is the virus that I am guessing could be at play. If we then take those dolphins out of the tanks at the dolphin conservation Park and put them into a sea sanctuary where there are wild dolphins, disease crossover into those wild dolphin populations is very possible. If those wild dolphin populations have not been previously exposed to this virus agent, then it could actually have catastrophic effects for that population.

The Hon. EMMA HURST: Dr Elliott, yesterday we heard from witnesses within the circus and they highlighted the case of Arna the elephant, who was rehomed into a zoo after she killed one of her handlers. The circus gave evidence that Arna died soon after that relocation and they put forward the argument that that was evidence that these animals should not be removed from the circus lifestyle and put into a sanctuary lifestyle. Contradictory to that, we also heard from Dr Clegg, who talked about the need for a transition process for dolphins—which is slightly different—if they were going to change that lifestyle. From a veterinary point of view, do you think that if the animals in the circus were to be rehomed, they would also need some kind of transitional process and that because the rehoming of Arna was so urgent and unprepared, that maybe that was part of the problem?

Dr ELLIOTT: It is a very good question. It is a difficult question to answer without knowing the specifics of what actually happened to Arna. I unfortunately missed that part of the proceedings yesterday, which I am sorry about. I remember following the case of Arna for quite a while and it is a tragic ending for her and for everyone. I do not know whether an autopsy was performed on Arna.

The Hon. EMMA HURST: I think the evidence was that nobody knew why she passed away. The circus said that they thought that she died from a broken heart, but I do not think there was any actual veterinary evidence of that.

Dr ELLIOTT: Yes. I am surprised there was not an autopsy, because we learn a lot from those. What I would say is yes, a transition period—I do not think anyone would come in with a truck and move animals from

a circus to a completely different environment without some preparation involved. Any time animals are moved, it is stressful. We find change stressful as people, and we have more capacity to plan and control our lives than they do—particularly animals who have been captive for as long as Arna was. If you change your dog's diet overnight, they could get a tummy upset. Starting from that premise, a large animal like that who has been confined for a long time, moved to a different environment—there has to be a plan in place. You would look at all sorts of issues, such as what is the environment they are going to, will they be with other elephants, will they be on their own, what will the fit be there, how will they be transported, how long will the transport take, will they have breaks during transport, water, feeding, what will their diet be.

You would also need a very good veterinary check from a vet—not someone like me. I have never touched an elephant, apart from as a child riding on an elephant—which I am ashamed to say, but those were the days—at the zoo. You would need someone with expertise in treating and assessing exotic animals to have a good look at this animal. What I am wondering, also, is what actually led to the aggressive attack on the owner or the trainer? As with all animals, it could be that the animal was in pain and was sick. I do suspect, though, that this is another tragic case where an animal—just because they are tamed, people think they are domesticated. There is a huge difference between taming and domestication.

The Hon. WES FANG: Sorry, can I pull you up there. Do you have any actual experience with this case?

Dr ELLIOTT: No.

The Hon. WES FANG: You are offering an opinion on this.

Dr ELLIOTT: Yes.

The Hon. WES FANG: I just want to clarify how much evidence you had to support an opinion.

Dr ELLIOTT: The evidence I have is veterinary training and going back to first principles, which would apply to anyone. The Hon. Emma Hurst's question was if an animal is being moved from a circus to a sanctuary, would they need preparation. I suggest they would need some preparation. These are land-based—

The Hon. WES FANG: How much experience did you have before we were able to rely on—

The Hon. EMMA HURST: I think the witness was putting questions forward rather than stating—

The Hon. WES FANG: No, I was listening intently.

Dr ELLIOTT: I was asked if an animal with an aggressive outburst like that was sick? What was the trigger? Is there something underlying it? We do not know. But given that we know it was an exotic animal in a circus, which is not a domesticated animal, the chances of this sort of thing happening are much higher. I am just putting out there all of the things that you would want to consider before you move this animal. Being a land-based animal, I do not think that you would have some of the same issues—you do not have to look at water quality et cetera. Yesterday Dr Clegg spoke at length about the need to make sure that animals that go to the sanctuary are trained so that if there is some catastrophe like an oil spill you can call them and get them out quickly. I am presuming that Arna had a higher level of training and understanding of words, et cetera. Again that is an assumption. I think I would say that a full understanding of why this occurred, what her mental and physiological status is like before she goes and what her husbandry consisted of, and then have a plan moving forward to go into the sanctuary.

The Hon. EMMA HURST: Dr Elliott, we have touched on this a little bit but obviously there have been attacks in zoos and a witness from the HSR talked about some incidents when people had been harmed from these animals. With the temperament of lions, for example, is there always a possibility that they may act out because there is less time of domestication?

Dr ELLIOTT: Definitely. Domestication means animals have been selectively bred either as companions to us, as food animals or as working animals. The domestication of the dog from the wild took something like somewhere between 11,000 and 30,000 years. So that is a lot of time to selectively breed an animal. The next came livestock. With exotic animals, they may have been in a family for generations and everyone knows them. They know their name and they may respond but they are tolerant of us. They were not selectively bred to be companions or to work with humans. They are actually still wild animals and a lot of them were taken from the wild or if they were born in captivity it is just one generation from the wild. They are genetically different from what you would call a domesticated animal. They are just tamed. We do not always know the triggers but the fact that they are exotic and wild animals at heart raises the chance that something like this could happen.

The Hon. EMMA HURST: Dr Visser, you suggested in your opening statement a sunset clause. Will you provide the Committee with an understanding of what you mean by that?

Dr VISSER: Yes. I think realistically it is looking at something along the lines of a genuine sanctuary but I stress the word "genuine" there. It should not be something that is just green washing and just turning something into another form of [inaudible]. I think the public appetite for that has decreased significantly and people are looking for the genuine sanctuary. It is worth keeping in mind that that includes a model where a sanctuary is effectively trying to go out of business. They actually do not want to have animals in place because they are trying to help them compared to a business model where they want animals because those animals draw the public into buying a ticket. I think the sunset clause has to be taken into account of how many individuals you have got and what state those animals are in. As Dr Dove pointed out, they need to be assessed appropriately. I heard Dr Clegg talk about a report that she did for the facility but we have not been able to access that report. It would be very helpful for a number of us experts to have a look at that and perhaps then we can advise better on what that sunset clause might look like.

The Hon. EMMA HURST: The Hon. Wilfred Moore wrote to the inquiry and said that you had provided advice in the Canadian case that actually led to a ban on the use of cetaceans for entertainment. Will you tell us a little bit more about your role there?

Dr VISSER: I was asked by a non-government organisation to come and speak to the Canadian Senate and basically just outline what the issues were with keeping cetaceans in captivity. There as well we talked about sunset clauses which included putting animals into sanctuaries. Luckily for the animals, that was actually passed and the legislation came into place earlier last year.

The Hon. EMMA HURST: Dr Dove, conservation has been mentioned many times in submissions and in yesterday's hearing to allow the continued breeding of animals in captivity but you highlight in your submission that this is a problematic argument. Why do you feel that the breeding of dolphins and other animals in circuses is not a form of conservation?

Dr DOVE: I have done a post-graduate Master's degree in conservation medicine and one of the things that we have in there is that breeding should only be done for the survivability of an animal species. So where an animal is vulnerable or critically endangered or on the verge of extinction, those are the animals that should be bred in a captive situation to enhance the survivability of that particular species. In the situation with bottlenose dolphins, they are a very common species that are not endangered. They are not even vulnerable. So to actually breed such a species in captivity is counterproductive and does not align with conservation [inaudible] at all.

The Hon. EMMA HURST: You also state in your submission that circuses and marine parks with live animals are a dying business model and should be phased out for more suitable alternatives. Will you explain why you have put that forward? What would be involved in a phase-out.

Dr DOVE: It is actually quite interesting because I have wanted to be a part of dolphin marine conservation parks for some time to be able to show them the way forward. As it happened, I ended up buying my own tourism park close to two years ago and have demonstrated exactly what I mean. I put in dolphins into my park and I have a very, very successful tourism attraction with my dolphins with people from literally all over Australia to come and see my—sorry, did I say "dolphins"—to come and see my dinosaurs. So there are a lot of new alternatives out there to be able to give the tourism market an experience where we are not using live animals anymore.

The CHAIR: For clarification, you said "dolphins" the first few times and then you corrected yourself and said "dinosaurs"? What does your park contain?

Dr DOVE: I have dinosaurs, sorry. My brain is focused on dolphins at the moment.

The CHAIR: As in robotic dinosaurs?

The Hon. WES FANG: Are we talking Clive Palmer ones?

The CHAIR: Clive Palmer ones or robotic ones?

Dr DOVE: I have amazing dinosaurs, yes. I have dinosaurs that are very real and do dinosaur shows and for all intents and purposes they are 100 per cent realistic. People constantly come and ask me how we do it. A magician never reveals their secret but I can guarantee you they are not real dinosaurs.

The Hon. WES FANG: I was going to say, do we need to free these dinosaurs? Do we need to have an inquiry about this? I am concerned for the dinosaurs' welfare.

The Hon. EMMA HURST: Dr Elliott, in your submission you talk about the inherent welfare risks in keeping exotic animals in circuses. Will you expand on that a little bit more?

Dr ELLIOTT: If you look at any of the five domains we use to assess animal welfare they are severely compromised. The first domain is nutrition. Whilst they are fed, they are unable to engage in normal feeding behaviours. I mean we are talking about a range of species here but an elephant, for instance, would spend most of its day feeding. They forage. They derive satisfaction from doing this and when unable to do so, and for other reasons, you will find that they cannot form other natural behaviours. You will find stereotypic behaviours or stereotypies—so swinging.

The Hon. EMMA HURST: Sorry to interrupt, for this inquiry we are mostly looking at lions and monkeys, just for clarification.

Dr ELLIOTT: The standards do not outlaw, unfortunately, elephants. The normal ways of foraging or hunting for food are removed, so they are fed whatever they are fed. That would take up a significant amount of time, particularly for lions, in any of their normal days. There is the risk of illness and injury. We do not know enough about their health status, but we do know that repetitive movements that have to be performed can lead to musculoskeletal injuries. I would like to focus more on the artificial and prolonged confinement that they are exposed to. The standards require 45 minutes of exercise four days a week, that is ridiculously low for a large animal that has a large range and can run a long way and very quickly.

They are deprived of the opportunity to express these natural and highly driven behaviours. The exercise that they do get is largely training, it is not exercise of their own choice. There are low levels of complexity in their environments and their cage sizes or enclosure sizes are woefully small for animals who range in very large areas in their natural environment. They are regularly transported and this is also an issue for all of them. They could be in their transport for up to two days with short breaks, this increases the confinement. Then, when they are let out, they are exposed to different environments and we do not know what pathogens are in the soil or the grass where they are given their rest breaks. Their social needs, this is a huge one, are unmet. They are in different kinds of social groups than they would normally be in. The fact that they have a restricted range of behaviours that they can perform and most of the time they are confined.

If you look at safaris that people go on that are well run ethical forms of watching animals in nature, someone said here earlier, and it was Dr Dove or Dr Visser, people learn so much from seeing animals in their natural environment and the incredible range of what they are capable of doing, how they interact with each other, and the time they would spend doing these things. In the standards I read somewhere it is considered acceptable to keep lions in captivity because most of the time they sleep. That is probably true. But the 20 per cent of the time that they do not sleep they are engaging in behaviours that are necessary for their welfare. These behaviours would include ranging for kilometres to catch food, to work with others, allogrooming, everything they do is prohibited in this captive environment. It does not matter that they would normally sleep 80 per cent of the time, it is what they do with that 20 per cent of the time they can no longer do.

The Hon. EMMA HURST: Yesterday we heard from the Department of Primary Industries that zoos have a minimum enclosure size of 300 metres squared. In the circus their home base has to be the same size but they could be held in enclosures as small as 20 metres squared—we are talking about lions—for up to 11 months at a time. As a vet how do you respond to that; 11 months in 20 metres squared?

Dr ELLIOTT: Well, the equivalent would be keeping a sow in a sow stall or a hen in a battery cage.

The Hon. EMMA HURST: In regards to their welfare, how would that affect a lion's welfare?

Dr ELLIOTT: This probably comes back to why you get attacks. The negative mental state from the lack of ability to satisfy natural behaviours, the lack of exercise, the discomfort of that confinement, the impact on their ability to socialise, I think the negative welfare states would be frustration and it would not surprise me if that was a contributing factor to any attack on a trainer.

The Hon. EMMA HURST: Dr Visser, your submission mentions the Australian Senate findings in 1985 and you also looked at how our current legislation in New South Wales conflicts with other national actions in Australia. In many ways Australia is working to protect cetaceans. How do our laws, according to your submission, fall behind in New South Wales compared to our national actions?

Dr VISSER: I think it is putting it into the framework of a global movement at the moment. There are many countries, as Mr Pearson pointed out earlier, that have instigated mores. I think that Australia, along with New Zealand, has a very strong stance against things like anti-whaling and yet I have heard a number of times from submissions and comments in the last couple of days about how Australia has no links, for example, to the Taiji dolphin hunt and I would definitely call that into question. I have seen video evidence that certainly makes me raise my eyebrows when someone says that. I think that you guys have the opportunity now to make a huge leap forward. It has been a long time coming and your citizens clearly want it. I respectfully request that you consider it very seriously.

The Hon. EMMA HURST: Do we need to be mindful of rescue dolphins potentially being permanently held for commercial purposes when we are actually looking at any changes to legislation?

Dr VISSER: Absolutely. If you go on and do some basic online research you can find easily 13 different facilities, 13 different species, which have been repurposed in such a way so they have been taken as a rescue animal and have ended up being used commercially so they are used in shows, swim-with programs, traded to different facilities, they are bred from and so that is not a rescue, that is a salvage. Using these animals commercially like that is really not ethically okay. You do not see that with other animals that are being rescued. You guys have some amazing facilities in Australia that do rescues of wild animals and those animals are typically returned to the wild or they are put into a sanctuary, a genuine sanctuary, and they are not used commercially. The current management clearly have a pretty good model that they are aiming for but that does not mean that they are always going to be in charge, so I do think that you need to have regulations or legislation that does make sure that those provisions are carried through.

The Hon. EMMA HURST: The Canadian submission also discussed the need to include consultation with Indigenous leaders, is that something that you think this Committee should also recommend?

Dr VISSER: Absolutely. I think all stakeholders should have a voice in this. I do not think that it is up to us as individuals to decide who should and should not have the opportunity to speak up. I heard somebody yesterday say that someone who does not care for animals directly should not be able to put their voice forward and I think that is really unfair, because just because you do not have a dolphin in your care does not mean that you do not care about what happens to that individual or the species in general. I would encourage a very broad stakeholder consultation because I think then you will begin to understand how much of your community really does not want to have these animals in captivity.

The Hon. EMMA HURST: Dr Dove, you noted in your submission that you have been familiar with Dolphin Marine Conservation Park for almost 20 years. You said that over this period what you saw made you question the legislation governing such facilities and their animals. Can you explain what you think needs to be improved in government regulation for these kinds of facilities?

Dr DOVE: When I first started going into what was then called the Pet Porpoise Pool I went as a vet student very much against dolphins in captivity and what I saw at the park completely changed me because the person in charge at the time absolutely loved the animals. He gave, for lack of a better word, a rescue sanctuary for injured animals that could not be returned to the wild. They were all rescue animals. They had broken wings. Calamity had her tailstock that was quite severely damaged. For whatever reason a lot of these animals could not be returned to the wild and instead of being euthanised they were kept at the porpoise pool and were loved, just like you would love your cat or your dog at home. It did change my perspective, seeing that and seeing how they were part of the family and everyone did really love those animals. Then the park changed management hands and for 14 years was under a different manager and the ethics, welfare and everything in the park changed.

Going from what the park did stand for to how the park changed made me question how we legislate to protect these animals. It is fair enough if you have a business model that protects animals and has their best interests at heart, like I saw initially, but then you get a change of manager who does not have the best interests of the animals at heart and those animals are no longer protected. This is why I think there needs to be an overseeing body, be that an ethics committee or advisory committee, I am not sure what sort of committee you need to form but something that looks after the welfare of the animals so that it is not at the discretion of management, who may not even be trained in animal welfare or animal husbandry issues whatsoever. That is where I am coming from with that statement.

The Hon. EMMA HURST: In light of your experience, would you also support a ban on the further breeding of dolphins for entertainment?

Dr DOVE: Absolutely. That goes without question. I mentioned before about the role of breeding in captivity. Bottlenose dolphins do not fit that criteria. I absolutely do not support the breeding of dolphins in captivity that are not critically endangered.

The Hon. EMMA HURST: Dr Elliott, you used words around domestic and exotic animals. There has been quite a discussion between Committee members about what is domestic and what is an exotic animal. We had some good legal definitions by the ADO. What do you consider an exotic animal or a circus and what do you consider a domestic animal?

Dr ELLIOTT: When I did our submission I went by the terms of reference and what is in the terms of reference is that any animal that is not native and is not a stock or companion animal is considered an exotic animal. I would go with that. There is another definition that the RSPCA Australia put into their submission that I like very much too. It goes beyond naming classes of animals and it talks more about their behaviour. What they

have written is species which are not domesticated and whose collective behaviour and physiology is essentially the same as their wild counterparts despite being maintained and/or bred in captivity. Those animals may be tamed but, as I was saying earlier, they genetically have not been selected over many, many generations to be comfortable around humans in the proximity they are if they are, say, in the circus. I think there was some talk this morning, I am not sure who was giving evidence, about where livestock would fit into this. I would not consider livestock to be exotic species.

The CHAIR: Just to clarify, if we go on the first definition as in the terms of reference as non-native, in the case of the Stardust Circus where you have dogs that perform tricks, they are non-native. They would not be classed as a companion animal because they are in the capacity of a circus.

Dr ELLIOTT: They are companion animals who have been trained to perform tricks.

The CHAIR: Under the definition of the Companion Animals Act, if they are not microchipped they are not a companion animal. So therefore—

Dr ELLIOTT: They are not exotic animals.

The CHAIR: Where do we draw the line in the sand?

Dr ELLIOTT: Okay, what you are talking about is the potential use of—dogs are in meat farms in Korea and elsewhere; they are still domesticated animals. They are a domesticated species. They may be used in different ways but that does not make them exotic animals because they have been domesticated.

The Hon. WES FANG: Conversely, if a lion is bred in captivity and is raised with human interaction, is that not a companion animal?

Dr ELLIOTT: No.

The Hon. WES FANG: Why is that?

Dr ELLIOTT: Because it is a wild animal that has been raised in captivity that has not been selectively bred over many, many years, thousands of years actually, so that they are genetically—

The Hon. WES FANG: So it is a period of genetic breeding that differentiates the animals?

Dr ELLIOTT: That is a part of it and it is what it is selected for. For instance, dogs, who were the first animals to be domesticated, whether we selected or they selected, the feature that was continually bred in was an affinity to be with humans and to work together. It was a kind of a mutually helpful relationship. Presumably dogs who were more aggressive or more fearful of humans were not part of that. If you pick a particular trait and select for it, whether deliberately or it just works out as self-selection, over many, many thousands of years you get a very different animal. If we looked at, let me think of another example, rabbits. We have domestic rabbits and we have wild rabbits.

The Hon. WES FANG: This is the problem that the Committee has found: Definitions can be applied on both sides of the aisle. We have, for example, brumbies. Brumbies were horses that were bred selectively for use by humans and then they were released and now they are a wild animal. Are they a domestic animal or are they a wild animal?

Dr ELLIOTT: I would say they are a domestic animal that has been released to the wild and is coping; they have the strategies to do that. Going back, the dog is a domesticated animal that someone is using by training them to do tricks and putting them into a circus. I do not like that but I would not consider them a part of this inquiry. Dogs are not exotic animals.

The CHAIR: Would you consider the other thing that was proposed: snakes and other reptiles going around the country shows? They are non-native in some cases; they are being used for both education and entertainment as the kids are enthralled by the snakes and seeing them handled. Would you consider them as coming under that definition of exotic?

Dr ELLIOTT: Yes, I would. It is an interesting question though because I think there are people who are very good at understanding the husbandry needs of reptiles. I do not know that those people are found in circuses.

The CHAIR: One question that I think we need to ask to make a decision on regarding the Dolphin Marine Park and their proposed sanctuary, in their submission they have suggested the Government assist financially with a feasibility study to build that sea sanctuary. We are seeking from some of the witnesses that have dealt with this area any information they can provide us in terms of costings, both establishment and ongoing,

of running such a facility so the Committee can be fully apprised and informed regarding the amount of their submission. Dr Elliott, do you have any knowledge of costings, both establishment and ongoing?

Dr ELLIOTT: I have no idea; it is out of my expertise. What I will comment on is the source of the money to maintain. I agree with what Dr Dove and what Dr Visser have mentioned what is important—we do need a feasibility study. We do not want to take them somewhere where they do not thrive. They need ongoing welfare assessments. We need to make sure that if these animals do go to a sanctuary it is a genuine sanctuary. That means that the costing does not come from them continuing to perform. If people want to pay a fee to come and look at them through the water that is one thing but having them continually perform or the potential of them being bred again, that is not in the spirit of what a sanctuary aims to do.

The Hon. WES FANG: Are we sure they do not enjoy performing?

Dr ELLIOTT: How would you know when they are not given much choice? The evidence given earlier was that they only do it for food.

The Hon. WES FANG: Sometimes I enjoy running.

Dr ELLIOTT: You have a choice of whether you run not. What we do know is that what these animals do in the wild, the behaviours that they are highly motivated to do—and it is gorgeous to watch them, the porpoising, the diving, the deep diving, the playing, all that kind of thing—they do that of their own accord. I will go back to talking about the concept of observing what they do in the wild and observing what they do when they are captive. Dr Clegg did some studies on anticipatory behaviour. She looked at seven dolphins and where they are up-looking and watching to see whether the trainer was coming and that was not the case in the majority of them. I have seen another study where after dolphins were engaging with people in a "swimming with dolphins" program they spent more time in the refuge area, they were slapping around, there was charging, definitely negative welfare states and aggressive behaviours. We cannot say that we know they enjoy these things. We know that they are conditioned by being given food and that is a different matter.

The Hon. WES FANG: But they may enjoy it. We do not know that they do not enjoy it.

Dr ELLIOTT: We know that they are not performing most of the behaviours that they should be performing in their natural state, which is why we see stereotypes. That does not happen in an animal whose welfare needs are fulfilled. It is the same as what you would see with an elephant swaying or a lion pacing up and down in a small enclosure.

Dr VISSER: I would like to mention that the question is very valid but you have to put it in the framework of what you actually see with the animals. For example, in these facilities the dolphins do not go out and perform the shows without being fed. If you try and do a show without them being fed they refuse to do the tricks. You watch them outside of the show and typically they are not doing these types of behaviours and certainly not for extended periods that you would see in the show. The behaviours happen on command. You do see with a dog and you take a dog to the park and you play with it with a frisbee or a ball, typically there is not food involved. These animals in the shows are very food motivated and when you look in the wild you do not see stereotypes. There is no record, there is not a single published paper of any stereotypes that you see in captivity exhibited with animals in the wild, and I am talking specifically about dolphins and orca. I think that is the contrast to make you question about whether the animal actually enjoys it and wants to do it.

The Hon. WES FANG: While I accept that, Dr Visser, the flipside of that is that these are intelligent animals and they know that if they perform they will be fed. In a way, they could be intelligent enough to say "I will not do this until I am being fed". The flipside of this is that they may actually enjoy the routine of the behaviours.

Dr VISSER: It is an entire possibility but it has never been proven scientifically and all the evidence points to that it is not something that they typically enjoy. Yes, they are highly motivated by the food. Aren't we all? How many of us know when it is lunchtime without even having a watch on. If you consider if you were in lockdown recently and you did not have your TV and your books and you did not have anybody to interact with except for perhaps a small group that you were constantly with, you would get bored very quickly. Some of the facilities I have visited upwards of 20 times and during those times I might see three shows a day and that could be over a period of 10 years and I have not seen any variation in the shows. What is happening is the same show is over and over again. For an intelligent animal this repetition is part of the problem: the repetitive nature of the tricks they are expected to perform. If you satiate the animals, if you fill them up and then ask them to do the tricks they just do not do them. So that also tells you something.

The CHAIR: I thank you very much for your insights. If you did take questions on notice the Committee secretariat will be in contact with you to get them from you.

(The witnesses withdrew.)

(Short adjournment)

JOANNE DORNING, co-author, *The Welfare of Wild Animals in Travelling Circuses* report, before the Committee via teleconference, affirmed and examined

The CHAIR: Welcome back to the last session of the day of the inquiry into exhibition of exotic animals in circuses and exhibition of cetaceans in New South Wales. Dr Joanne Dorning is coming to us from the United Kingdom. Dr Dorning, would you like to give an opening statement?

Dr DORNING: Yes, I would. Thank you for inviting me to give evidence before this inquiry. I have a PhD in wild animal behaviour from the University of Bristol and I am one of the three authors of *The Welfare of Wild Animals in Travelling Circuses* report. This was emailed to the Committee as a submission for this inquiry. The report was published in 2016 and is widely considered the most comprehensive review of the—

The CHAIR: Dr Dorning, we are having trouble picking you up. Would you be able to step back from your phone a little bit. We are getting the inflection on the end of your words coming through.

Dr DORNING: Is that better? Shall I start again?

The CHAIR: Yes, for Hansard.

Dr DORNING: Thank you for inviting me to give evidence to this inquiry. I have a PhD in wild animal behaviour from the University of Bristol and I am one of the three authors of *The Welfare of Wild Animals in Travelling Circuses* report. This was emailed to the Committee as a submission for this inquiry. The report was published in 2016 and is widely considered the most comprehensive review of the issues surrounding circus animal welfare ever undertaken. Our report was commissioned by the Welsh government. They invited my co-author Professor Stephen Harris to do it because he had expertise in the area and had already published a paper on the welfare of wild animals in circuses in a scientific journal *Animal Welfare* in 2012.

The objective of our report was to, "provide an impartial review of the scientific evidence available as to whether captive wild animals in circuses and other animal shows achieve their optimal welfare requirements as set out under the Animal Welfare Act 2006 and any other relevant legislation." Steph Harris asked Heather Pickett and myself to collaborate with him on this report to bring a different perspective and to share the workload. The report was peer reviewed by three international experts, each with differing perspectives on the issue and this is more reviewers than the average academic paper, which only gets two reviews. In the four years since the report was published it has been reviewed extensively around the world and several other governments have considered it as part of their review into the use of wild animals in circuses. The report is robust, scientifically sound and has a due scrutiny in all of these reviews.

Just a little bit about the methods that were used. We conducted the review in two stages. First, we consulted experts from the main stakeholder groups, that is circuses and animal shows, zoos, vets, lawyers, scientists and non-governmental organisations to identify the key indicators and influences of animal welfare in captivity and specifically in travelling circuses and animal shows. Then we used the results of this consultation to undertake a comprehensive scientific literature review of the key issues identified. We identified about 1,700 texts and narrowed this down to 1,300 relevant scientifically robust texts, read each text and summarised the key findings on each issue in our report.

The conclusions were this: We evaluated scientific evidence from the impact of different aspects of circus life on animal welfare and found that all key welfare needs are compromised to a greater or lesser extent. Travel and exhibition means smaller and less complex enclosures, disturbance is unpredictable and unavoidable and there is an overall lack of control over the environment. Of course, an animal will have good and bad experiences throughout their day and throughout their life. It is important to consider all aspects of the captive experience as a whole and the life of the animal as a whole. Absence of poor welfare in one aspect of living does not always equate to good welfare overall. A key question we need to ask is: Is this a life worth living? Based on the evidence we reviewed, we concluded that by their very nature travelling circuses and animal shows cannot fulfil the welfare needs of wild animals.

The CHAIR: I have a couple of questions before I pass on to other Committee members. Looking at the study you did, when you initially went out to those experts and different stakeholder groups to get those value statements, were any of them from our jurisdiction? Did you consult with circuses or people involved in the industry in Australia or New South Wales?

Dr DORNING: We consulted around the world so there may have been some from Australia, but I cannot remember exactly. There is a list of the people who participated in the report and those who wanted to have their names named are in the appendix at the back of the report.

The CHAIR: I note that from the report you had a fairly low response rate to both the initial survey, where you were seeking those value statements and then the follow-up value statements—around 15.8 per cent for the first part and then 15.7 per cent for the other. We have heard evidence from other experts that say that those sorts of response rates are normal in this sort of research. Do you have any insight as to why 85 per cent chose not to engage in your research? Do you hold concerns or were those concerns raised in the peer review about a low response rate?

Dr DORNING: I do not think there has been concern about a low response rate for a survey like this—or any survey, really. You are always going to get people who decide not to respond, who respond later or whose contact details are out of date. We got emails sent to us from various different parties and from websites and reports. Some of them were a few years old so they might have expired, or people may have changed jobs or positions. I do not think there was a call for concern.

The CHAIR: Is there any particular reason, generally speaking, why there is such a low response rate for these sorts of surveys—other than obviously out-of-date contacts? Do you see a general reluctance of people to engage in these sorts of research projects?

Dr DORNING: I am not an expert in conducting surveys, so I would not like to comment scientifically, but I imagine that some people just do not have time or they do not check their emails. There are a variety of reasons.

The Hon. EMMA HURST: Just to clarify, your comments are in relation to any surveys, not just surveys on animal issues—is that correct?

Dr DORNING: Yes.

The CHAIR: I was not assuming that.

The Hon. EMMA HURST: That is all right, I just wanted to clarify. Thank you for speaking with us today. In the past few weeks the Welsh Government instituted a ban on the use of wild animals in circuses and, in large part, that was based on your report. Is that correct?

Dr DORNING: I am not sure if they actually banned them because there are no circuses operating in Wales at the moment anyway. It is more to do with circuses travelling through Wales from elsewhere, and this issue has largely been nullified by the fact that the United Kingdom has recently left the European Union.

The Hon. EMMA HURST: So what was it that was being reported in the media recently in regards to Wales? What was their move? They stopped circuses from travelling through, is that what happened?

Dr DORNING: Yes, the thing they were trying to achieve was not circuses operating in Wales full stop—not necessarily just existing in Wales because there were not any circuses in Wales already—but they wanted to stop the whole circus activity in Wales.

The Hon. EMMA HURST: Who commissioned this report originally?

Dr DORNING: The Welsh Government.

The Hon. EMMA HURST: The report concludes that any potential contribution of circuses to education and conservation is at best marginal, and may actually have a negative impact on the public's perception of wild animals, especially for children. Can you explain a little bit why it would have a negative impact on children?

Dr DORNING: It is about the image that is portrayed about the animal. Circuses will minimise the differences between human and animal and this betrays the idea that animals are willing performers and disguises the underlying human domination of that animal. Using animals as entertainment suggests that—sorry I am just scanning through my notes—it sends the message that animals exist for our enjoyment and exploitation and this does not promote the respect and consideration towards them that we should be giving. Wild animals have intrinsic value and we must respect their wildness and encourage children to do the same. The fact that we are using them as entertainment sends the message that they are there for us to use for our own benefit and enjoyment, rather than appreciating them for what they are.

There is also the idea that circus animals are not being displayed in the environment that is representative of their natural habitat. For example, in a zoo enclosure tigers would be in a pool and they would have the right sort of habitat around them that gives the viewer, the visitor, the child—whoever it is who is that is looking at them—an idea of what that animal would naturally be doing in the wild. That is a lot more of an accurate picture to be showing people than in a sandy arena or whatever environment it is that circuses have an animal perform in.

The Hon. EMMA HURST: We have also heard some arguments that exotic animals like lions and monkeys might actually enjoy travel and may enjoy performing. Is that backed up by your research?

Dr DORNING: There was some evidence of the benefits of mental stimulation from being trained, but I think that is more from the learning experience. Once the learning has stopped and once the animal knows the trick there is less mental stimulation because they are just repeating a learnt behaviour; they are not learning anything new. Whether or not they enjoy it is hard to quantify, but there was some research that showed increases in stereotypical behaviour prior to a performance. Some researchers interpreted this as anticipatory behaviour, which is—anticipation produces dopamine, a feel-good hormone that is released in anticipation of reward.

But it is hard to tell the difference between anticipatory behaviour and stereotypical behaviour, which is typically more of a coping behaviour to a potentially stressful event or a frustration. Also, it has been shown that animals respond more strongly to the opportunity for stimulation if they are already in an impoverished and deprived environment. So if generally an animal is under-stimulated and then it is offered the opportunity to be stimulated by doing something or experiencing something different, it will respond more strongly to that experience than an animal that is sufficiently stimulated in their life or sufficiently fed. They do not perceive that experience as being so positive and so much of a reward compared to their daily life.

The Hon. EMMA HURST: Dr Dorning, some circus groups have sought to attack the credibility of your report. Is it only those linked to the circuses that have sought to criticise this report and do you think that the criticisms are fair?

Dr DORNING: No, I do not because it has been peer-reviewed by three independent experts and they did not disagree with what we said. The only comments they had were about the presentation, not the content and not the interpretation of the results. We have also had a letter sent directly to the University of Bristol about this and it was reviewed by an independent expert employed by the university. They went through the whole report and could not find fault with it. So, it has been reviewed multiple times by different parties and each time they have not found anything wrong with it.

The CHAIR: Just another question from me. During this inquiry we have had evidence that points to an issue with a definition of what is an exotic animal. Obviously you are in a different jurisdiction and have different wildlife native to you than we do, but what work has been done in your jurisdiction to define that concept of what is an exotic animal and what is not? I just want some insights from you regarding that.

Dr DORNING: The definition from the Zoo Licensing Act 1981 that applies to the UK is a non-domesticated animal. It is defined as a member of a species that is not normally domesticated in the British islands, that is to say, a species whose collective behaviour, lifecycle or physiology remains unaltered from the wild type, despite their breeding and living conditions being under human control for multiple generations.

The CHAIR: Okay. That was a definition for an exotic animal? What did you say—a non-domestic animal?

Dr DORNING: Non-domesticated, yes; exotic versus non-domesticated.

The CHAIR: Thank you.

The Hon. EMMA HURST: Your report ultimately concludes that, based on scientific evidence, travelling circuses do not achieve optimal welfare requirements. What were the major factors leading to this conclusion?

Dr DORNING: The main thing that kept coming up is the fact that animals do not have any control over their environment. That can also be perceived control rather actual control; so they do not have any choice; they cannot necessarily choose whether to participate in a performance or not; they cannot choose whether to be transported from place to place or not; and they cannot have the freedom to express their normal behavioural patterns or activity patterns just because of the nature of the activity of the circus life. They have to be shut up at night, and what about nocturnal animals like lions, who are most active at night. They are spending that time confined in a small enclosure than they have access to in the day.

There is also increased exposure to injury and disease—well, not necessarily injury but certainly disease—from travelling from place to place being exposed to different parasites and pathogens on the grass when they are grazing on communal land or local wildlife they might come into contact with, too. They might be carrying diseases. Injuries from being transported, such as the muscle strain from having to constantly support yourself in the back of a van and adjust your body position to maintain balance.

There is also the issue of the social environment. Animals may be grouped in unnatural social conditions. They cannot necessarily choose their social partners, particularly when they are restrained or confined. They

cannot say, "I want to go and spend time with that member of my social group" because "I can't get to them", or they might not be able to hide from other animals that they are sharing their environment with because there is no retreat space or there is no place to get away from each other because of the nature of the small enclosures that they are in.

To us the main issue with travelling circuses is that the space is limited. They cannot give the animals as big an enclosure as they could in a static environment because they have to be able to be packed up and moved on to the next place. That means that their enclosures are generally smaller and less complex. That means that the animals have fewer behaviour opportunities.

The CHAIR: Can I just ask this: That is based on the UK experience, is it, or a world view? I ask because I have just received confirmation from people within the Australian circus industry and they indicated that they were not included in the formation of your study. They were not consulted so my concern is that the Australian perspective of how circuses are done and regulated in New South Wales and Australia were not necessarily properly considered or taken into account in your study.

Dr DORNING: I think in the circus environment they are going to share the same attributes, regardless of which country they are in or the different base requirements. An extra metre square of space for an animal is probably not going to make a huge amount of difference, depending on what they already have, compared to the overall experience of their life. Like I mentioned in my opening statement, you have to consider every aspect of the captive experience—not only the space requirements and the complexity of the enclosure but also the choice and control they have over their environment; their exposure to disease; their positive emotional state. So it is not just about giving them what they need to be able to have normal biological functioning—so "Yes they're alive. Yes, they're eating. Yes, they're reproducing. Yes, they're not dying", but "Are they happy?" or "Are they in a positive emotional state? Are they content?" That is something that not often is considered in the calculation.

The Hon. EMMA HURST: I have a follow-up question to what the Chair put forward in regard to the space requirements to try to understand the New South Wales context compared to what the report's context was.

The CHAIR: I was not talking about space requirements but never mind.

The Hon. EMMA HURST: In New South Wales, for example, the zoo standard requires 300 metres squared for lions but in the circus they can be kept in 20 metre squared for up to 11 months at a time. Based on your findings from your reports, would you consider that adequate—20 metres squared for up to 11 months at a time?

Dr DORNING: It depends on the species but certainly for a wide-ranging animal, such as a large cat, a big cat, I would not say that that is an adequate amount of space for the majority of their year, the majority of their life, to be confined to that area. It also depends on the quality of that enclosure and the rest of their lifestyle as well, not just the space but also the other aspects of their experience.

The CHAIR: Just to clarify: My statements were not limited to just space requirements for circuses. I was talking more generally, the whole general environment. I guess for comparison when you conducted your research—and we now see that you did not include Australia—but in the other jurisdictions you did look at, did those jurisdictions have minimum standards of welfare for the circuses?

Dr DORNING: Some did. The specificity kind of varied. Some of them gave metre-squared guidelines. Some of them left it a little bit more vague: They were like, "Does the animal have enough space to do these behaviours?" Sometimes it is kind of subjective.

The CHAIR: I notice you are focusing on the space issue but I am more talking generally about a minimum standard of welfare. The New South Wales standard of welfare goes beyond space. It looks at other issues.

Dr DORNING: Sure.

The CHAIR: Outside of the space requirement did some of these other jurisdictions have minimum standards of welfare that the circuses had to abide by?

Dr DORNING: Yes.

The Hon. EMMA HURST: Just going back to the space requirements, you mentioned that some of the jurisdictions had space requirements. I know that you might want to take this on notice because it is quite a specific question, but I am just wondering how the New South Wales space requirement of 20 metres squared for up to 11 months would compare to some of those other areas that you looked at?

Dr DORNING: That would have to be something I would take on notice.

The Hon. EMMA HURST: Yes. That is fine.

Dr DORNING: I am very reluctant to focus very much on space requirements because it is not just about giving an animal a lot of space. During lockdown you can be in the biggest house possible but you can still be feeling frustrated because you cannot go out and see your friends.

The Hon. EMMA HURST: Yes, absolutely. Thank you.

The CHAIR: I wish to ask this question: In the study you did, particularly with lions, did any of the lions in your jurisdiction have reverse cycle air conditioning in their enclosures?

Dr DORNING: I do not remember reading that.

The CHAIR: Just for perspective. It is just that the circus in question in New South Wales provides that facility. I am just curious as to the level of standard in other jurisdictions.

The Hon. EMMA HURST: Dr Dorning, would you consider reverse cycle air conditioning an indication of high welfare, though?

Dr DORNING: No, I would not.

The CHAIR: Why not?

Dr DORNING: Well, thermal regulation is something that animals need to be able to do, of course, but it depends on the animal's response to that. You cannot just measure: Do they have air conditioning or not? You have to say, "Is the animal the right temperature? Is it behaving in a normal way?" You would perhaps do an experiment with and without and compare the difference in behaviour and see if that actually makes the crucial difference. I mean, it is definitely a contributor to welfare. One of the aspects of welfare is being able to thermally regulate the body. Some animals have air conditioning but that does not mean, "Okay, great, it's cool. Its got good welfare and move on."

The CHAIR: You spoke about space requirements. What would be an acceptable space requirement for the lion species, noting that the lions in the New South Wales circus actually have 900 square metres of space, not the 20 square metres that is being reported by my colleague?

The Hon. EMMA HURST: That is for one month at a time.

The CHAIR: No. It is actually in there.

The Hon. EMMA HURST: No. The evidence given yesterday was that that was a home base only.

The CHAIR: What would be an acceptable level of space requirement for such a species?

Dr DORNING: I mean, to give you an exact metre squared, I cannot just come up with a number off the top of my head. I would have to go away and research it. I might have to take this one on notice.

The CHAIR: Sure.

Dr DORNING: But I am sure that the bigger the better, in general.

The CHAIR: Okay.

The Hon. EMMA HURST: Just to go back, my question about the air conditioning is what you were talking about before is that welfare is quite broad. Some of your main concerns with welfare were not to do with body temperature regulation but about natural behaviours. I just wanted to talk a little bit more about what those natural behaviours are and what the issues are when we are not able to put into standards how to actually care for those welfare needs.

Dr DORNING: I will say for lions specifically they would typically roam. They spend a lot of their time sleeping, sure, but this is not all they do every day. They might be roaming, they would be foraging, they would be hunting together, they would be socialising, grooming and doing all those things. If they are in a social group, sure they can socialise and they can groom each other but they cannot roam. They need to go and forage. There is not really much purpose in their life. They might experience boredom so it is important to give them enrichment in their enclosure—different substrate so they can roll around in the sand, scratch and do all these things. For primates specifically they need to have vertical space to climb, to get up high away from each other, places to hide from each other—again, promoting natural foraging behaviour. I mean, there is a whole spectrum of different behaviours you would expect.

The Hon. EMMA HURST: And you found in that report that any kind of circus lifestyle, no matter if they had air conditioning or slightly bigger enclosures, could not meet those needs?

Dr DORNING: I mean, again, it is about the contrast between biological functioning and the positive affective state. They might have enough food. They might be able to stay the right temperature, but do they have control over their environment to be able to live a good life?

The Hon. EMMA HURST: The report also notes that travelling circuses bring animals in close contact with humans and different species, posing a significant risk of disease transmission from animals to humans. Is this a challenge going forward, especially now while people are even more concerned after the COVID outbreak?

Dr DORNING: Yeah. I mean, as soon as you start bringing contact between different species there is going to be zoonotic transmission. You can minimise it by maximising hygiene, of course, but especially when animals are moving from place to place you do not know what they have picked up from where they have been.

The CHAIR: Sorry, you just answered a question and spoke about what is a good life. How do we define what is a good life? I note that in terms of the cessation in marine parks there has been some scientific work done on five domains of welfare, but how do we define a good life? What do we base that on scientifically? Are we just comparing it to how they would have lived in the wild and then gradually scaling it down? What work has been done in that space to define what is a good life, or are we just basing it on humanistic values of what a good life is?

Dr DORNING: So you have to take into account all of the different experiences that that animal has. Some of them are going to be positive and some of them are going to be negative. I do not think it is right to just compare it to the wild particularly because in the wild they are going to experience starvation and predation and they do not have those experiences in captivity. But I do not think we should be portraying the idea that humans look after animals better than they look after themselves. Also I think it is important to look at how the animal would behave in their natural habitat and what they would be doing. I think a good life is in the proportion of good to bad experiences if the good outweigh the bad, then that is good but you want it to be that the majority of their experiences will be positive ones. You want them to be able to thermally regulate. You want them to be able to roam and forage and move around, exercise, not be at increased risk of disease, socialise, have mental stimulation and all of these different aspects, but they all need to come into consideration.

You cannot have just good welfare in one aspect without also considering the other aspects of their life. If they are spending a lot of time, like 11 months of the year, in winter quarters where it is really space restricted and unstimulating, and the other month of the year they are touring around being exposed to a lot of transport, a lot of stress and then moving on to the next location without being able to acclimatise and recover from that travel before moving on again—like, that chronic stress that they are going to be exposed to, does that outweigh? Do the negatives outweigh the positives? You just have to consider it on balance and whether it is actually worth it.

The CHAIR: Has there been any specific research though into I guess quantifying that? I know you have just given a fairly broad synopsis, but has there been any specific research that looks at quantifying it or measuring what is a good life for an animal?

Dr DORNING: Well, most research will focus on one or two specific welfare measures. They will look at stress hormone levels or they will look at behavioural time budgets—so how much time they spend doing each different activity, how much time do they spend doing stereotypical behaviour, and then they might compare two or three different scenarios, with and without enrichment or with a small enclosure and a large enclosure. But they will not consider everything in combination. That is why our report is useful—because we look at everything in combination. Once you start to see the same patterns, regardless of the welfare measure, that is when you start to see, "Okay, there's a problem here."

The Hon. EMMA HURST: One concept we have in common—and I think this might sort of tease out your answers to the last question—is the use of the five freedoms. I wonder if you can explain what the five freedoms are and some of the challenges in meeting these five freedoms when it comes to exotic animals in circuses?

Dr DORNING: Yes. So the five freedoms were actually developed for farm animals and they have been sort of adopted by the welfare community as the basic things that animals need to have freedom from in order to have good welfare. These are the freedom from hunger and thirst, the freedom from discomfort, the freedom from pain, injury and disease, the freedom from fear and distress, and the freedom to express natural behaviour. These five things as a whole sort of encompass the animal's life experience. These are what most legislation focuses on when they give you the requirements of space and thermal regulation, diet—that kind of recommendation.

The Hon. EMMA HURST: What are some of the challenges in meeting these five freedoms when it comes to exotic animals in circuses?

Dr DORNING: For example, freedom from hunger and thirst: The circuses need to have access to food that will keep animals in a good welfare state. To encourage them to participate in training they might be slightly food deprived prior to a training or prior to a performance just so that the animal responds to that. Like I was saying before about anticipation, animals that are deprived in some way are going to respond more positively to an opportunity that they perceive as having a reward than if they are going to do a performance and that is going to involve getting some food. If they are a bit more hungry, then they are going to respond better. They are going to do what you want them to be. So they may be not experiencing that freedom for some parts of their day.

Freedom from discomfort: Well, I am not sure how comfortable an animal could be during transport. It is something that we have tried to minimise when the animals are not being moved around so much. For a circus in which animals might be on the road maybe every week or two, I imagine it is not very comfortable in the back of a transport container. I am making speculation here but I know for sure that animals have shown stiffness and have not been able to rest properly during transport. So there is that—just not being comfortable. Also, just on the performance movements that they are being asked to do in these performances, they may not be completely comfortable. There is also freedom from pain, injury and disease. I mean, I know that for circuses, their animals are their life so they will try their best to give the animals the best possible care they can. I am sure that they do try to do that. The animals will be well looked after to the best of their ability but we cannot protect them from disease when they are being moved around and being exposed to all those different pathogens in different parts of the State.

Freedom from fear and distress: I mean, you really do not know how animals will habituate to the circus environment or whether they just enter into a state of learned helplessness, which is when, after repeated exposure, they learn that they cannot escape from a negative stimulus so they just stop trying. They may appear not to react to crowds and loud noises and being taken into the circus ring, but that does not mean that they are seeing it as a positive experience. They are just not reacting to it because they know they have no choice. Also, I mean, it depends on the way the animal is trained as well as to how they perceive that training, the emotion they feel towards that training experience, and the freedom to express natural behaviour. That really depends on aspects of the environment, whether they have the ability to roam, to forage, to climb, to bathe in water and to do the things that they are naturally motivated to do as a wild animal.

The Hon. EMMA HURST: Thank you.

The Hon. MICK VEITCH: Thank you, Dr Dorning. I just have a couple of questions, more about trying to get an understanding of the licensing regime in the United Kingdom for circuses. Reading your report I know that they receive licences under the Welfare of Wild Animals in Travelling Circuses (England) Regulations 2012. Is that correct? Am I correct in believing that?

Dr DORNING: In the UK? Was your question in the UK they receive licences?

The Hon. MICK VEITCH: Yes.

Dr DORNING: Yeah. There is a licensing Act.

The Hon. MICK VEITCH: How long are the licences for? Are they annual licences or are they three or five-year licences?

Dr DORNING: I honestly cannot remember how long they are and would have to take that on notice.

The Hon. MICK VEITCH: Okay. Thank you.

Dr DORNING: My assumption would be one year but I am not sure.

The Hon. MICK VEITCH: Thank you.

The CHAIR: I have a question from the Hon. Catherine Cusack, who also is on the line.

The Hon. CATHERINE CUSACK: Thank you very much—much appreciated. In your study, was there any distinction between circus animals that were caught in the wild versus circus animals that had been bred for that purpose?

Dr DORNING: No. We did not make that distinction.

The Hon. CATHERINE CUSACK: Okay. I had a second question that escapes me just for the moment. I will let someone else ask their questions.

The Hon. EMMA HURST: Just a follow-up from the question asked by the Hon. Catherine Cusack while she is remembering what her other question is, do you think that your study included both animals in the

circus that had been born into the circus and ones that were wild-caught? Do you think that both of those were involved?

Dr DORNING: Yes, I do, because we just considered any animal in the circus to be a circus animal, regardless of their origin or history.

The Hon. EMMA HURST: Okay. Thank you.

The Hon. CATHERINE CUSACK: I have my next question. Many of the criticisms that you have in relation to their inability to behave kind of naturally, would you also equally apply those criticisms to production animals, for example, battery hens and other animals that are farmed for fur or for meat and often go through confinement and transportation and those sorts of experiences?

Dr DORNING: For farmed animals in a factory farming situation, yes, I would. They are extremely restricted and they cannot perform their natural behaviour.

The Hon. CATHERINE CUSACK: Would you also apply those criticisms to animals held in zoos and marine enclosures?

Dr DORNING: Certainly marine because I know that they spend a lot of their time in barren tanks. They are wide-ranging animals. For other animals, it depends on the species. For the wide-ranging animals with a very specific habitat and requirements then, yes, I would agree. It really depends on the species and the environment the zoo is keeping them in. But certainly I feel that a static environment is going to take away at least one of the stresses that circus animals experience, which is the regular disruption from being transported from place to place, the exposure to disease that comes with that and animals being used for performance. In a zoo, they may not be being used for performance so they are not going to be disturbed for training sessions and being exposed to large crowds.

The Hon. CATHERINE CUSACK: It comes back to the Chair's excellent question, I thought, earlier, which was: How do you define a good life for an animal? Would you accept that you are fundamentally challenging how humans interact with animals in all ways, other than animals that are in the wild and do not have human contact? It just sounds like any interaction with humans is going to be negative for animals. Would you accept that?

Dr DORNING: I would not say it is as black and white as that. I think for certainly wild animals they are better off in the wild for most scenarios because I do not see why humans feel like they can provide the environment that the animal can give themselves in their natural environment. For more domesticated species, they have been bred for many generations to become more accustomed to living with humans and living alongside humans. They have a closer human relationship. They are not as fearful of humans. Their behaviour has changed from the wild type. They are more accustomed to living with us. It is the same with farm stock. They are domesticated, right? They just have different behavioural requirements that enable them to survive under human-managed conditions, but for wild animals that are used to being a lot more autonomous to me it seems clear that if you are a domesticated animal, humans are able to provide you what you need because you have been bred to cope with that environment. For wild animals, it is just not possible.

The Hon. CATHERINE CUSACK: So in relation to these animals like lions, even if they have been bred for the purpose of being bred in captivity, I suppose the term is, there is something about those animals that they are just not going to be suited to human interaction. Would that be like a different category of animals, would you say?

Dr DORNING: I think that just because an animal has been bred in captivity for a few generations, it does not change them from their wild type. They have not been selectively bred. There is a fox breeding project in Russia. They have taken I think 50 generations of foxes to select for friendliness towards humans. Only after that many generations were they able to start sort of having a closer bond with them, more like dogs. It takes a long time and a lot of selective breeding and a massive amount of effort. The animals that are bred in captivity, that kind of gene pool is just not as spread out. It is not shared. There is a lot of inbreeding. They are not selectively bred for compatibility with humans so you cannot assume that they are able to cope with the human environment.

The Hon. CATHERINE CUSACK: Thank you for the answer.

The CHAIR: That pretty much brings our hearing to its conclusion. Thank you very much for your time, particularly given the time difference. Thank you.

Dr DORNING: You are welcome.

The CHAIR: If you took questions on notice, our Committee secretariat will be in touch to receive them from you. Thank you.

The Hon. MICK VEITCH: Thank you.

The Hon. SAM FARRAWAY: Thank you.

The Hon. WES FANG: Thank you.

(The witness withdrew.)

The Committee adjourned at 16:55.