

REPORT ON PROCEEDINGS BEFORE

STANDING COMMITTEE ON STATE DEVELOPMENT

INQUIRY INTO ANIMAL WELFARE POLICY IN NEW SOUTH WALES

CORRECTED

At Preston-Stanley Room, Parliament House, Sydney, on Monday 21 March 2022

The Committee met at 9:30.

PRESENT

The Hon. Catherine Cusack (Chair)

The Hon. Scott Barrett
The Hon. Mark Banasiak
Ms Abigail Boyd
The Hon. John Graham
The Hon. Emma Hurst
The Hon. Taylor Martin
The Hon. Mick Veitch

PRESENT VIA VIDEOCONFERENCE

The Hon. Peter Poulos

* Please note:

[inaudible] is used when audio words cannot be deciphered.

[audio malfunction] is used when words are lost due to a technical malfunction.

[disorder] is used when members or witnesses speak over one another.

The CHAIR: I officially open and welcome everyone to the second hearing of the inquiry into the animal welfare policy in New South Wales. The inquiry was referred to this Committee by the then Minister for Agriculture and Western New South Wales, and relates to the New South Wales Government's draft Animal Welfare Bill 2022. Before I commence I would like to acknowledge the Gadigal people of the Eora nation, who are the traditional custodians of the land on which the Parliament sits. I acknowledge the traditional owners of the lands from which all meeting participants join us today. I pay my respects to the Elders past, present and emerging, and extend that respect to all Aboriginal people who may be watching.

Before we commence I will make some brief comments about the procedures for today's hearing. Today's hearing is being held virtually and in person, 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 the broadcasting guidelines, media representatives are reminded that they must take responsibility for what they publish about the Committee's proceedings. While parliamentary privilege applies to witnesses giving evidence today, it does not apply to what witnesses say outside of their evidence at the hearing. Therefore, I urge witnesses to be careful about comments you may make to the media or to others after you complete your evidence.

Committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. All witnesses have a right to procedural fairness according to the procedural fairness resolution adopted by the House in 2018. There may be some questions that a witness could answer only if they had more time or with certain documents to hand. In those circumstances witnesses are advised that they can take a question on notice and provide an answer within 21 days of receipt of the transcript.

Professor KATHY BELOV, Pro Vice-Chancellor (Global Engagement), University of Sydney, before the Committee via videoconference, affirmed and examined

Dr SUSAN MAASTRICHT, Director, Research Integrity and Ethics Administration, University of Sydney, affirmed and examined

Professor SVEN ROGGE, Pro Vice-Chancellor Research, University of New South Wales, affirmed and examined

Dr TED ROHR, Director of Research Ethics & Compliance Support, University of New South Wales, before the Committee via videoconference, affirmed and examined

Professor KEVIN DUNN, Pro Vice-Chancellor Research, Western Sydney University, sworn and examined

The CHAIR: I welcome our first witnesses. Would the University of Sydney like to make an opening statement?

KATHY BELOV: Yes, we would. Thank you, Chair. I am Professor Kathy Belov, Professor of Comparative Genomics and Pro Vice-Chancellor (Global Engagement) at the University of Sydney. I have extensive knowledge about animal welfare issues, as a researcher working to protect Australia's unique native species, including the koala and Tasmanian devil. Madam Chair, I would like to take this opportunity to thank you for all the great work that you are doing for our koalas. I am joined by Dr Susan Maastricht, the university's Director of Research Integrity and Ethics Administration. As we stated in our submission to the Committee on the draft Animal Welfare Bill, the University of Sydney has a strong commitment to animal welfare and welcomes the opportunity to assist this inquiry. We have engaged with the Department of Primary Industries' policy reform process since mid-2020.

Today we wish to reinforce the key points that we have stressed in our submission on these reforms. First, in the 1980s New South Wales led the way in establishing legislation dedicated to protecting animal welfare in research and teaching. The proposed repeal of the Animal Research Act 1985 and its replacement with the draft Animal Welfare Bill, will dilute New South Wales' well-recognised standards and risk reducing community confidence in our approach to protecting animal welfare. Our preferred position is to retain the Animal Research Act, which aligns closely to international best practice approaches taken by many European countries.

Second, we understand that the Government's intention is to provide detail by regulation. If the Committee endorses this approach, we are keen to work with the department on the detailed regulations. Animal research must have dedicated sections in the new Act and regulations, as is the case in other Australian jurisdictions. Third, animal research and teaching are currently more rigorously regulated than any of the other proposed activities that are given specific exemptions from prosecution under the draft bill. The Animal Research Act embeds the "Australian Code for the care and use of animals for scientific purposes". It sets whole-of-life animal welfare standards, respect and personal responsibility for animals, and supports the social licence given to those conducting animal research. Animal research requires a specific section in the draft bill. Otherwise, we fear that public confidence in research will be eroded.

The University of Sydney has a long history of working with New South Wales government for the benefit of the community, including by delivering scientific findings that offer protection for humans, animals and the environment. We reiterate our commitment to animal welfare and care, and urge the Committee to carefully consider the merits of repealing the Animal Research Act. If the Committee endorses the Government's proposed approach to consolidation, we ask that it recommend to the Government that it works with the university sector to develop specific animal research sections for inclusion in the draft bill and regulations. Thank you, and we are happy to take questions.

The CHAIR: Thank you very much. The University of New South Wales?

SVEN ROGGE: My name is Professor Sven Rogge, and I appear on behalf of the University of New South Wales in my capacity as Pro Vice-Chancellor Research, together with, virtually, Dr Ted Rohr. Dr Rohr is the Director, Research Ethics & Compliance Support, and leads the animal care and ethics team at UNSW. With this statement, we would like to outline the core points of our submission. First, the current animal welfare framework, presented by the New South Wales Animal Welfare Act 1985, clearly articulates the expectations under which bodies conducting research involving animals operate and how regulatory bodies operate to oversee compliance. It has been proven to be effective in maintaining a high level of animal welfare and allows for due diligence and appropriate parliamentary oversight.

Second, the replacement of this Act with the broad draft Animal Welfare Bill 2022 risks the loss of carefully established standards of regulation for animal research and progress that produces outstanding results,

such as significant advances in cancer research and the development of COVID-19 vaccines and treatments. The animals undergoing procedures are subject to close monitoring using stringent veterinary and end-point criteria to address animal welfare. All these aspects are considered by the animal ethics committees on an individual project basis and are subject to close monitoring during the lifetime of the project.

Third, the bill proposes to delegate powers for the regulation to establish details relating to animal research licensing schemes, including the role and functions of the animal ethics committees, without any detail on what this is and would look like. It is understood that this is to allow for flexibility in adjusting to emerging issues or changing evidence. However, there is considerable concern regarding the consequences of these changes in parliamentary oversight. Fourth and final, the University of New South Wales maintains a strong compliance framework amongst researchers using animals because of the power of the Act. The framework places penalties against noncompliance while encouraging self-regulation in how institutions encourage compliance and the uptake of values enshrining animal welfare considerations in all research involving animals covered by the Act.

All of this points towards the value of the current Act and regulations as a tool for the research sector to lay the framework for animal welfare considerations and put us at the forefront of national and international efforts to regulate animal welfare. Our priority is to retain the current Act and regulations to ensure that high standards of animal welfare and a robust regulatory framework for animal research are maintained. Thank you. I look forward to your questions.

The CHAIR: Thank you. Professor Dunn from Western Sydney University?

KEVIN DUNN: Thank you very much, Catherine. Our view, too, is that the current Animal Research Act is effective and bespoke legislation. Its repeal could leave gaps in regulation that could undo what we perceive as very robust and effective animal protections that we have for research at the moment. Without those, we think there is the risk of unnecessary adverse events and unacceptable practice. It is our view that the most straightforward way is not to repeal the Animal Research Act. However, if in the interests of consolidation the Act is repealed, then we have submitted that we need substantive and detailed clauses either in the merged Act or in regulation so that those important protocols are still covered.

Our third point is that we need close consultation with the university research sector on those regulations and other important relevant stakeholders. Our fourth point is that there are some key things that need to be in the merged bill or the regulations, the principle of three Rs for research key among them, but also clear guidance on the accreditation and licensing regime and the like, and community representation as well. Our fifth point is that there be no gap, so that when the bill becomes an Act, the regulations are in place and there will be no gap in cover. We prefer no repeal; we need the regs if you do: consultation, please, on those—there are a couple of key things that need to be in there—and no gap, please.

The CHAIR: I will call Mr Veitch in a moment to ask a question. But am I understanding correctly that the evidence is essentially that it is not broken and does not need to be fixed? Everybody would agree with that? Yes. Okay, thank you.

The Hon. MICK VEITCH: Thank you. I think others are going to talk to you about the regulations. I am going to leave that to the others. Professor Dunn, the Western Sydney University submission states:

Also, under 'Recognised Research Purposes', veterinary and behavioural sciences have now been combined and are listed as 'veterinary behaviour'. This is alarming as it discounts a large portion of research pursuits that would routinely fall under the umbrella of veterinary and behavioural research.

Clearly you are quite concerned by this. If this draft bill is to proceed, how could that be rectified? And can you give us some examples of why that is so alarming?

KEVIN DUNN: We would recommend an overt reference to research—I guess that is the clearest way forward—and that in the merged bill much of the protocols that are in the Animal Research Act are present. But, again, it goes back to our original proposition: If there is no repeal of the Animal Research Act, this is not an issue.

The Hon. MICK VEITCH: Okay. Also, in your submission, you talk about the fact that the draft bill does not cover the conduct of animal research and teaching by accredited research institutions with ethical review and oversight by an AEC, which you view as a concern. Again, the same question: Why is this a concern and how should it be rectified or how could it be remedied in the draft bill?

KEVIN DUNN: Inclusion of reference to the broader research that is undertaken in regards to animals, not just in the university sector but others, would be our key recommendation. Again, regulations could cover this sort of thing, I guess, but there needs to be a clear indication in the bill towards those regulations.

The Hon. MICK VEITCH: Okay. My last question is to all of you before I hand over to someone else. What we are hearing is that the current framework is, in my words, hunky-dory. It is fit for purpose, essentially. But if there were failings in the current system, what are they? I might start with Professor Rogge.

SVEN ROGGE: I reiterate that it is working well. If anything, the interpretation is left to the institution. I do not think that is a failing—there is clear oversight in that—but the local interpretation is a challenge. But I think we cope well with that.

The Hon. MICK VEITCH: What about Professor Belov?

KATHY BELOV: I think we are actually world leading with our current Animal Research Act. I think it is quite clear and easy to follow. I guess the only thing that I would be thinking about in terms of potential changes is on the reporting. I think there are some issues with the way we report compared with the way others report that perhaps gives a sense that over-inflates the number of animals we use in research. For instance, we report on use of animals, and that could be the number of bats flying past the camera or a number of chickens in a commercial hen yard, whereas others would only specifically report on biomedical research on the number of mice or rats used in cages.

I think there are ways we can finesse that to better improve reporting and transparency of the types of work we do, perhaps by breaking it down into biomedical, wildlife and other types of research. But that is a detail; I do not think that is particularly relevant for this conversation. But we would be keen, if there were refinements to the Act down the track, to contribute to those and to help refine those.

The Hon. MICK VEITCH: Professor Dunn?

KEVIN DUNN: I did not come prepared with an answer on that question today, Mick, but I would think the key thing is to protect the cross-references to good practice and the code, because that is the real strength here: the cross-reference to the national code. As a practice, I generally like more regulation than legislation because it is more adaptable, and that is why Western Sydney University is somewhat comfortable with regulation as a response. That might give some flexibility for the sector then to change and adapt. It may well be the case that the Animal Research Act at the moment does fossilise practice, to some extent, and make it more difficult to make changes. We accept and concede that as one potential failing. However, it has not, to my mind, unreasonably fettered research in the university sector to date.

The Hon. MICK VEITCH: Okay. Thank you.

The Hon. EMMA HURST: We have talked a little bit about regulations. Professor Dunn, you just touched on that then as well. When we heard from NSW Farmers and from other groups, there was concern about moving large parts of the Act to regulation because of uncertainty going forward and the fact that it is much easier, obviously, to change regulations than it is to change an Act and the fact that it does not have to go through both Houses of Parliament or a political party room. Are there concerns about certain parts of the Act becoming regulations and uncertainty going forward and things changing?

KEVIN DUNN: Is that a question to me?

The Hon. EMMA HURST: Everyone.

KEVIN DUNN: Yes and no, of course. The issue with regulation as opposed to legislation, of course, is that it is amenable to change, which in the research sector would be a good thing, where we need to adapt to cutting-edge thinking, the three Rs: generate new ways of reducing our need to use animals, refinement, replacing the use of animals. There is lots of things that happen in science, which means we do not necessarily want to be fixed into certain forms of practice. However, then there is also the issue, though, that things can change in a way that might not be preferable and might not give certainty to the sector. I guess that is a trade-off. I think, speaking from a university where we would like to see some adaptability to the science, we are not overly concerned with regulations as long as they are well written.

KATHY BELOV: Thanks, Ms Hurst. I guess I disagree with that. I think to me animal welfare is so crucial that we need to maintain and protect it the best way we can. I think the best way to do that is to have it in the Act itself, have all the protections there, to minimise the amount of changes that can happen through regulations with changing governments. We know that big changes can come about through those minor changes in regulations. So I would be wanting more of it in the Act rather than in the regulations, to really clearly signal that the animals we use for research and teaching—animal welfare comes first and it really needs to be protected.

The Hon. EMMA HURST: Professor, you also talked about your concerns around the social licence being eroded. Is that related to too much of it being in regulations?

KATHY BELOV: Yes. I think it is really critically important for the public to understand the strict regulations that we work under, the fact that we as universities take animal welfare really seriously and for us to be as transparent as possible. My worry is when the reference to research is woven through a large document not clearly defined, with words like "exemptions" listed around "animal research", people might think that we are going to be less careful about the types of research that we do. So I think the more we can make it really clear for both our researchers and the general public about the way that we take this work seriously, the better it will be.

TED ROHR: I think the Act is quite overarching, displaying the operation of animal welfare guidance for universities. The details are regularly reviewed in the Australian code for the use of animals, and the Act is amended accordingly. The flexibility that is needed is already implemented by reviewing the code on a regular basis with community input, research input, everyone. That is then reflected in the legislation subsequently. So I think the flexibility is already there.

SVEN ROGGE: Just briefly, I do not agree with my two colleagues that just spoke. Animal welfare, especially in a research setting, is extremely important to us. It has been 37 years since the Act. Research has evolved a lot. We are still working very well with this Act. I think it is working well even though we have change.

Ms ABIGAIL BOYD: I just wanted to drill down into this point. I guess, if we are looking at whether or not we have a standalone Act or we take the current Act and try and build it into this new bill, from what I understand from your submissions, at the moment the existing Act has been imperfectly built into this bill. Is there a reason other than that that you prefer to have it in a standalone Act? Can you articulate why it is better, left as a separate bit of legislation?

SUSAN MAASTRICHT: Perhaps I could make a comment about this. The Act as it stands at the moment, unlike other jurisdictions, is a singular Act, to which we go directly. It is very clear. There is no misunderstanding about the fact that this is about animals that are involved in research. That means that the way that we set up our systems and our processes is very well described. We know that the code is embedded in it. We know that the prescription is there about the constitution of ethics committees, the fact that we have community members and that one-third of every committee, including subcommittees, must be category C and D members.

This is our social licence. These are the people that are telling us, "Yes, we agree. The research that you're conducting, you've been able to demonstrate that the use of the animals for that research has been justified because of the benefits that are going to come to humans, animals or the environment." This, I think, is quite unique and it is a stand-out. It is a stand-out that other countries around the world have used for many, many years. I think it would be a great pity to lose something which has served the welfare of animals in the research environment so well for so long.

SVEN ROGGE: If it were perfectly transplanted and still an Act, I would have not a problem. It is really that fear that it works very well and any aggravation of that is not acceptable. It is really have it with parliamentary oversight in an Act. If you would achieve that, we would be all for it and would be willing to work with you. But it is a tall call because what has been built in the last 37 years is quite substantial.

The CHAIR: Do any other witnesses want to add anything?

TED ROHR: As somebody who has been responsible for establishing and maintaining the compliance environments in this field, the Act has been very important in having a solid framework for researchers and others involved in animal research. It does take a lot of effort by the institutions to comply. So it is very important that there is a senior piece of legislation that is really enabling us to maintain the compliance.

The Hon. MARK BANASIAK: Just picking up on, I guess, some of the comments that have been made already and also Mr Veitch's comments, the University of Sydney's submission talks about how the definition in the draft bill for "animal research" differs from the national code. It talks about that it does not reflect the breadth of animal research conducted. So I am just interested to know currently what would be some research as defined by that national code that would possibly fall foul if this bill was passed and that alignment did not happen. Do you have any current examples of research that is being done, that would not fit into that definition in the draft bill?

SUSAN MAASTRICHT: With respect, I would probably need to take that one on notice and get you some information. Is that okay?

The Hon. MARK BANASIAK: That would be good. If you could each perhaps take it on notice, in your respective universities, what would be some research that may fall foul if there is not that alignment.

The CHAIR: I just wanted to ask about the system of ethics and its governance. I understand that there are international standards but I do not know how they operate. Obviously there is a national code. I do not know who is responsible for that and how these things fit into what actually happens in each ethics department. I am

guessing that it is quite a complex, well-developed system that everybody has to be trained in before they can proceed. I wonder if you could just give us an overview of that so that we can understand where the New South Wales legislation fits in and what role it plays.

SUSAN MAASTRICHT: When an institution decides that they would like, in fact, to undertake research involving animals then they have to go through the process of being accredited as a research establishment to use animals. They may or may not also need to have a suppliers licence.

The CHAIR: Who would do that accreditation?

SUSAN MAASTRICHT: That accreditation goes through to the Animal Research Review Panel.

The CHAIR: Who are they?

SUSAN MAASTRICHT: The Animal Research Review Panel are currently, I guess, the senior advisory governance panel that is sitting currently under the Animal Research Act. They work closely with and are staffed by personnel within DPI.

The CHAIR: So they are empowered. How does that fit into the national code? Is that just something that sits beside it?

SUSAN MAASTRICHT: That has been one of the things that has been established, I guess, to support the implementation of the code. One of the things that ARRP has been able to deliver over the number of years that it has been operating is not just all the licensing requirements but it actually has provided advice to the Minister. It has created the guidelines and fact sheets and those sorts of things. It has helped the institutions to stay abreast of current changes and developments in the sector and it has also been responsible for reviewing the reports on inspections of facilities. It fulfils a very significant role in terms of supporting institutions who are undertaking animal research.

The CHAIR: Who is responsible for the national code?

SUSAN MAASTRICHT: The NHMRC, ARC, CSIRO and Universities Australia have all been involved in the development of the national code. It has been a code that has been around since maybe the 1970s. It was developed in advance and we are now at the eighth edition. So you can see the iteration that has happened over a period of time, which is about learning more about what is needed for the welfare of animals in research. The code has been very prescriptive and it actually applies quite significantly in the way in which the Act is implemented as well. The two things work absolutely together: The Act provides the legal setting and the responsibilities by law but the code provides the system that you need to follow and the standards that must apply if you are going to be undertaking animal research.

The CHAIR: Is the code enacted by the Federal Parliament?

SUSAN MAASTRICHT: It is a statutory instrument. It is certainly incorporated into all of the legislation and it is noted as a code that will be referenced in all of the legislation across Australia.

The CHAIR: In addition to that, we have international standards and work and bodies and the code would be the place that is responsive to what is going on globally.

SUSAN MAASTRICHT: The reviews of the code have usually incorporated elements of the international setting. As things have been learnt, that is what has happened. But I should remind you that in fact our legislation and the way that we did things go back to 1985, and it was of course in development prior to that. We set the standard and the world followed.

The CHAIR: I can see that the regulation is actually a package of different components that are fitting together quite well at the moment. The sector feels that it is operating well.

SUSAN MAASTRICHT: Yes. One of the things that Kevin mentioned before was the three Rs. We are talking about reduction, replacement and refinement. They are the three Rs. They came out of a book that was written in the 1950s that really set the scene for the way in which you should be undertaking research. I think that without those and without embracing that, the welfare of animals in the research setting is not going to be as good. The code embraces it and, as a result, so also does the legislation.

The CHAIR: Thank you very much for explaining how that works.

The Hon. EMMA HURST: Can I just follow up as well? One of my questions was actually specifically about the three Rs. I know that there were criticisms that it was only mentioned once in the objects of this new proposed bill. I know some of you felt that that was not sufficient and that the three Rs should be playing a much larger role in any legislation. I know there is also discussion about a potential fourth R, which is the attempt to

rehome animals as well. Can you talk a little bit more about the three Rs or even the fourth R and what you would like to see included in the bill or the regulations around them?

SUSAN MAASTRICHT: Can I do a personal wish list?

The Hon. EMMA HURST: Yes, please.

SUSAN MAASTRICHT: I would sincerely love it if, aligned to the grants that are provided for people who are undertaking research, they were also given money to be able to look at how they could reduce the number of animals, how they could replace the animals that they are using and how they could refine the processes. I think if the granting bodies actually did that as well, we would move forward a great deal faster. That is very personal commentary, but it is a really important one I think if we are going to move forward in that space effectively. Having said that, I know that UNSW now has a very substantial way of supporting people in looking at the three Rs and alternatives to animals for research. We have our own three Rs award program and we receive about five to 10 applications every year. Some extraordinary things have come out of it, both for teaching and for research. I think that there is a lot of movement about moving away from animals wherever we can.

The Hon. EMMA HURST: Professor Rogge, you had your hand up.

SVEN ROGGE: Yes, Susan gave me a nice shout-out. It is extremely important to us that UNSW actually have an internal grants scheme that is also open to submissions from outside. We put \$250,000 towards basically improving the three Rs—replacement, reduction and refinement. I want to add that it is not just the three Rs; there is also the assessment of the scientific question, right? It is not just that you reduce. It first has to be that the scientific outcome has to be really achievable, and then we look at the three Rs. It is very important to the sector.

The Hon. EMMA HURST: I have another question for you, Professor Dunn. It also follows on from something that the Chair was asking. You noted in your submission that you would also like to see the NHMRC code and Animal Ethics Committee process enshrined in the bill. I would like to hear what you want to say about the three Rs or the fourth R, but also about enshrining the NHMRC and Animal Ethics Committee process.

KEVIN DUNN: Sure, Emma. I reinforce again that to Western Sydney University as well the three Rs are very important to us. We have done world-leading attempts at progressing the three Rs, and that is true across the Australian sector. It is very impressive what Australia has done. One innovation is our Braincubator, which reduces the amount of tissue that we actually have to use. That is a world-leading innovation that our team put together. It is high-level substance and content that needs to be in the Act. That is our view. That goes also for the things that you just made reference to before. One of our concerns is that it is an imperfect integration at the moment. That is the case. If it was a perfect integration, it would be those sorts of cross-references of top level substance that we want to see in the bill, not just the regulations in the Act.

Ms ABIGAIL BOYD: My understanding is that the Animal Research Act currently sits within the responsibilities of the agriculture Minister. Do you think that is the most appropriate place for it to sit or would you prefer it to be administered by a different Minister? Anyone?

The Hon. EMMA HURST: Who do you think is the most appropriate Minister?

KATHY BELOV: I will take a stab. I think the challenge is that the ministries do change. We do have a Minister for science now. That would not have been the case a couple of years ago. Yes, I do not have a strong feeling but I do think that the breadth of our research does cover everything from agricultural to biomedical to conservation and wildlife research and many others. I think that would be up for debate as to where it would be best placed.

Ms ABIGAIL BOYD: Thank you. Does anyone else care to put a view?

The CHAIR: On that, how do you interact with the department at the moment on these regulatory issues?

SUSAN MAASTRICHT: Do you mean in terms of reporting?

The CHAIR: All of those things. The evidence is that the system is working fine at the moment in terms of interacting with New South Wales and I just wanted to understand what interacting is involved. Mr Rohr?

TED ROHR: We are working closely with the Department of Primary Industries when it comes to licensing, the accreditation of the animal ethics committee—the new members of the animal ethics committee are accredited by the department—and also we are working closely with the department as they are conducting regular audits of the universities, very thorough audits that are providing feedback on how our system is working.

The CHAIR: Is there an office in the department and is the person signing off on the accreditation, perhaps the director-general—or I think the term is secretary—of the department?

TED ROHR: There was some movement in the department recently. I am not sure. I would need to take that on notice.

The CHAIR: Thank you very much.

The Hon. MARK BANASIAK: This picks up from what the Chair and Ms Boyd were saying, but does it really impact your day to day operations who the Minister is? No?

SUSAN MAASTRICHT: No.

SVEN ROGGE: It is the don't fix it if it ain't broken category for us I think.

The CHAIR: I have not seen any demonstrations about it in Macquarie Street.

The Hon. MARK BANASIAK: No.

The Hon. EMMA HURST: Not yet. You're giving someone an idea.

The Hon. MARK BANASIAK: Scientists are too busy to protest.

The Hon. EMMA HURST: I have one final question about a comment made in the submission by the University of Sydney. You say you support retaining the requirement that animal research inspectors be veterinary practitioners. Another submission by Humane Research Australia highlighted that this requirement has caused problems in the past because of the issues around recruiting and retaining vets. It is not just in this role. This is across the board. We have a major vet shortage throughout New South Wales. I know that the DPI were quite lucky for a very long time. I think there was a vet in the role for about 22 years, but there was a significant period where a vet could not take that role so there were no inspections in 2018 and 2019, which dropped the requirements around those inspections. I am wondering how we fix this if we are struggling to find vets to fill that inspection role going forward.

SUSAN MAASTRICHT: Perhaps I can answer that because I am a veterinarian myself and I am aware that there is a shortfall in terms of veterinarians who have expertise in this particular area. So we have made the decision to actually introduce an internship program for young vets. We have our first intern on board. They come in for a two-year period during which they do some external training through the University of Edinburgh. They also participate in all of the different things that the animal welfare officers do in our institution. Should they stay with us, if they are wonderful, then that of course is a wonderful bonus. But the other thing is that they are going back out into the community and may be given opportunities to be working, whether it is in government or whether it is in other institutions, and we believe that that is something that needs to be done. That would just be one person every two years.

So we have taken a different approach and I have now been liaising with the veterinary school. The fourth-year veterinary students go out on placement and we are just now developing an arrangement whereby they will come and do a placement with us as well. So that they are not only going to perhaps have one lecture in all of the time they are at university about animal research but perhaps are getting more than that and have an opportunity to work with our animal welfare vets and to come and be part of ethics committees and see how all of the ethics committee members work together and the rigour of what is done. Perhaps this will encourage them to think about this as a career path for the future. It is a slow process but it is one that I think is going to be really valuable. Interestingly, prior to this I was talking to Professor Dunn and he said, "Oh, I wouldn't mind being involved in doing that." So we may just have another place for our young vets to be able to go as well.

The Hon. MICK VEITCH: This is the second hearing day of this inquiry. At the previous hearing day we had a number of really stimulating conversations around recognising animal sentience in this draft bill. I would be very keen for each of your institutions' or your own views about the merits of recognising animal sentience in the legislation. If I could start with Professor Rogge and we will work our way across.

SVEN ROGGE: That is a very important question but with my background, I am a physicist, I will not touch that because I am not sufficiently qualified. I will hand it over.

The Hon. MICK VEITCH: You could take it on notice.

SVEN ROGGE: Happy to do that.

The CHAIR: Either university can choose to answer it.

SUSAN MAASTRICHT: With regard to sentience, I think it is the global language around animals that are used in the research environment and I think it would be well for us to take note of the fact that it is being used

widely. It is also important, I note that in the outcomes document you explain the reason why, rather than using the word "sentient", you have included the description of what that actually means and that it relates to harm and what that harm might be. I think that it is actually a very well-known, well-recognised word and I think that we do need to be using it. If it is in the code, we need to be using it more broadly. I think it is just one of those things: Bite the bullet and make sure that it is in there. Because you can describe what it is, put it in, have a description: This is what it actually refers to. I think it is a really important one because it is well understood in a global setting. If we are talking about the way that animal research is going to be interacting, where we have openness, transparency, reproducibility, all of those things that are so important, then let us make sure that we are using the same language.

KEVIN DUNN: From Western's perspective too, anything which has currency and operability is preferred, but again it is not my area of expertise and I will need to take it on notice.

The CHAIR: Does anybody else want to comment? Thanks for the question, it is a great one. I am starting to realise how important this national code is. I am wondering if someone could recommend to me how the Committee could maybe write to them and get some more information on some of the matters that we are reviewing so that we can better understand how things interact.

SUSAN MAASTRICHT: I think you would need to speak to the animal welfare team in the NHMRC. They take carriage of the code. The code I would think is probably due for another review sometime in maybe the next 12 months. I would definitely talk to them. The code is referenced in every piece of legislation around the country where animal research is actually addressed. The reason is because it is a code that does need to be reviewed and updated. So I would speak to NHMRC about that.

The CHAIR: Can you help me to work out how we can find out how many institutions are accredited to conduct experiments in New South Wales?

SUSAN MAASTRICHT: I would have thought that you would be able to speak to the DPI and they would be able to give you exactly what you needed to know.

The CHAIR: Is there collaboration between you, New South Wales—

SUSAN MAASTRICHT: Between institutions?

The CHAIR: Correct.

SUSAN MAASTRICHT: All the time.

The CHAIR: Is the ethics approach applied as a standard across all industries or fields of study? For example, are they the same in medicine as they are in veterinary studies?

SUSAN MAASTRICHT: Absolutely.

The CHAIR: And environmental studies?

SUSAN MAASTRICHT: Yes. The code sets the ethical standard, and the code applies to any animal that is used in research that is named in the code.

The CHAIR: Your committee at the university ensures compliance with that?

SUSAN MAASTRICHT: Absolutely.

The CHAIR: You oversight that and then need to be satisfied at the conclusion of the research that it was done ethically?

SUSAN MAASTRICHT: Yes, absolutely. The consideration that occurs at an ethics meeting is very robust. It can be back and forth with the researchers to get clarification. It is a very robust process—the scientist, the veterinarian and the community members. One of the really fantastic things that we have seen since this all started more than 30 years ago is the growth and the way in which ethics committees behave because we have had the community members present who have challenged us. They ask, "Why are you saying that? What are the reasons for that?" It has been a wonderful thing. I have been on a number of ethics committees, and it is lovely to see that growth that happens. It means that every year we are doing a better and better job.

The CHAIR: Can I ask you to share a case study of that happening?

SUSAN MAASTRICHT: I can. I will not do it from the University of Sydney, but I will do it from somewhere else where we had an ethics committee. It was in a teaching environment. It was very important. Kevin mentioned before about other places where animal use occurs with teaching. I would suggest to you that the TAFE sector is exactly the sort of place where animals are used for teaching: to teach young vet nurses and to teach

animal technicians. One of the things that we did was we had somebody who came in as a category C person and their perspective on things allowed the committee to grow and develop and put some stronger SOPs in place to, in fact, really train the teachers better about how to make it happen and to make sure the message was getting to the students. It was a very worthwhile development, and I have seen it again and again.

The Hon. SCOTT BARRETT: Just following up on the codes, I feel like I know the answer to this but are there any activities that happen outside of what is prescribed in the code that you rely on the Act for, or is the code the guiding principle document?

SUSAN MAASTRICHT: The code is the guiding principle. It is the standard that is applied within the Act as well. They work collaboratively together. They work really in partnership, and that is as it should be. What the legislation does is it gives it the teeth.

The Hon. SCOTT BARRETT: Is that missing in the new Act, do you feel?

SUSAN MAASTRICHT: Yes—sufficient teeth and clarity and the ability to go straight to something and say, "Yes, that is what we have got to do." It is clearly delineated in a place that is very well understood because it is prescribed there. I think that even if you look around the other States and Territories, they have a part in all of their legislation which is prescribed, albeit in a different piece of legislation, specifically for use of animals in the research and teaching environment. I think that that is the issue. It is about clarity and us being able to find that information quickly and easily and understand exactly what is needed.

The Hon. MICK VEITCH: Can I just follow on? Does the code acknowledge or recognise sentience?

SUSAN MAASTRICHT: I knew you would ask me that question. I was reading it the other day, and I am not absolutely certain that in the current version sentience is written.

Ms ABIGAIL BOYD: My understanding, reading the code right now, is that it talks about emerging evidence of sentience and an ability to experience pain and distress as something to take into consideration. It also mentions in a couple of places non-sentient organisms. I am curious as to what, in practice, that distinction looks like. Are you able to give the Committee a clearer—

The CHAIR: I think Professor Rohr was quite keen to say something. We will move to that.

TED ROHR: There is sentience as a concept in that—I saw the previous talks with the hunters' dogs. How do we feel that they are cared for and that they feel in a happy environment? I think in a laboratory setting there is increasing recognition that we need more science in how animals feel pain, how they feel wellbeing and how they display that wellbeing. That is exactly why UNSW put grants up to do research on that, and that is an international question. The code itself limits animals as vertebrate animals, and the legislation, and depending on the State or Territory of Australia some include higher order invertebrates. That excludes animals such as nematodes. In fact, a lot of researchers do work with nematodes and fruit flies, for example, because they feel it is too much hard work to go through the animal ethics process. So there is an exclusion of animals that are not covered by the Act, but it is clearly defined for vertebrates and invertebrate animals.

The CHAIR: Thank you, Dr Rohr. I am really sorry but we are just about out of time and we do like to give you an opportunity, each of the institutions, to let us know if we have missed something in the hearing today. I might begin with the University of Sydney. Do you have anything that you wish to add, not a summary but just anything that we have missed or that you would feel would be good to say?

KATHY BELOV: I cannot see Susan to see if she is wanting to say anything but, from my point of view, I think we have covered everything we wanted covered today, so thank you.

The CHAIR: That is much appreciated.

SUSAN MAASTRICHT: I would concur.

The CHAIR: The University of New South Wales?

SVEN ROGGE: We touched upon it briefly but it is so important that I want to reiterate: If there is a change, consultation is extremely important. If you would move towards the draft bill, there needs to be a lot more consultation with the sector.

The CHAIR: Thank you. Professor Dunn?

KEVIN DUNN: The same point as Sven's, otherwise well covered for us, thanks.

The CHAIR: I thank all of you. The evidence that you have given today has been very enlightening and it is very much appreciated. I will call this part of the hearing to a close and invite the next set of witnesses to come forward.

(The witnesses withdrew.)

Dr IAN ROBERTSON, Co-founder and Director, Sentient Animal Law Foundation, before the Committee via videoconference, affirmed and examined

Mr DANIEL GOLDSWORTHY, Co-founder and Director, Sentient Animal Law Foundation, before the Committee via videoconference, affirmed and examined

Ms TARA WARD, Managing Solicitor, Animal Defenders Office, affirmed and examined

Professor CULUM BROWN, Head of the Fish Lab, Macquarie University, before the Committee via videoconference, affirmed and examined

The CHAIR: I now welcome our next witnesses. Professor Brown, can I just clarify if you are appearing in an individual capacity or on behalf of the university?

CULUM BROWN: In an individual capacity.

The CHAIR: Thank you very much. That is terrific. Mr Robertson, do you have an opening statement you wish to make to the Committee?

IAN ROBERTSON: I do, thank you.

The CHAIR: Please proceed.

IAN ROBERTSON: First of all, thank you for the opportunity to appear on behalf of the Sentient Animal Law Foundation. As you will see from our submissions, our core message is that by legislatively defining "sentience", referencing the science, the knowledge and the wording of the five domains, first of all you get a duty of care for both halves of the animal's life experience. Secondly, you establish New South Wales as the global leader of animal welfare, with all the benefits that accrue from that position for the next 15 to 20 years. At its heart, animal law is about more than just recognising the inherent value of animals and establishing how we should treat them. It is governance of the human-animal relationship.

For the last 200 years, the legal model has functioned on taking a responsibility for just half of the animal's life experience, namely, the animal suffering. Remembering that the human-animal relationship affects animals and people, duty of care within animal law has enormous consequences for people's interests that are conveniently illustrated in the three subgroups of animal law, namely, private animal law, public animal law and international animal. Recognising the need to elevate standards of animal welfare has turned discussions from around the world to the subject of animal sentience. There are five key understandings demonstrating that the definition of sentience is the doorway to extending the duty of care with positive animal welfare law.

Those five key understandings, which we can talk to later in discussion are, one, first and foremost, existing anti-cruelty law implicitly recognises animals are sentient; two, law hinges on the concept of responsibility—when using the law to deliver nationwide change within necessary time frames, nothing changes in practice if you do not change the duty of care; three, animals feel and experience negative and positive states, which has given rise to the concept of positive animal welfare on the basis that animals, according to the science of the five domains, experience more than just suffering; and, four, positive animal welfare law replicates the performance and practices of New South Wales' top 11 per cent of animal-related industry, corporates and wider animal caregivers.

Essentially, point four states that with positive animal welfare law, today's standards of best practice become tomorrow's norm. Finally, five, you will see from the submissions of the Sentient Animal Law Foundation that the three-word law reform and legal definition that clearly and unequivocally extends law's duty of care is that sentience means that animals experience negative and positive states. Thank you again for the invitation. Representing the co-founders of the Sentient Animal Law Foundation, Daniel Goldsworthy and I look forward to answering your questions.

TARA WARD: I would like to thank the Committee for inviting the Animal Defenders Office to give evidence at this inquiry into a very important matter of animal law reform. You will probably be aware that our submission was fairly long. I do not actually have anything further to add. I think we covered everything that we wanted to cover in the submission, so I might just leave it at that today.

The CHAIR: Is it possible for you to perhaps just summarise the key conclusions of your submission?

TARA WARD: There are a few things looking at and taking the bigger picture, and that is that it is hard to judge the sort of full extent of what will be provided or what will be contained in the new regulatory framework because a lot is not—we just do not know what it will contain because it will be contained in the regulations. So it is hard to comment on that. From what is there, I would say that it takes a conservative approach to animal

protection—very conservative in 2022—in that I am sure you have already spoken at length about the fact that it does not acknowledge sentience. I think that is a serious omission and really undermines any claim that this will be a modern animal welfare Act that will take New South Wales into the next 10 years or more. It simply will not be able to do that if it does not acknowledge sentience. It is the equivalent of, for example, 20 years ago redoing an animal protection or an animal welfare law and still only focusing on anti-cruelty measures rather than incorporating a positive duty of care. That is where we are at now with regard to acknowledging sentience. Certain key omissions include the fact that it does not include an independent office of animal protection. I would say that is a serious omission. I am sure other things will come up during the discussion today.

The CHAIR: That is okay. There will be an opportunity for that too. Thank you so much. Professor Brown, do you have a brief opening statement that you wish to make?

CULUM BROWN: Sure. Thank you. I think it is probably best to start with a little bit about me while I am here so that the Committee can understand my background. As I mentioned, I am the head of The Fish Lab at Macquarie University. I am a recognised world expert on fish behaviour, particularly cognition. My work on fish intelligence, in particular, informs concepts of sentience and welfare. That is where my expertise overlaps with this inquiry. Like I said, I am on the Macquarie University Animal Ethics Committee for 10 years as a category B member, so obviously there is a lot in this that I have a vested interest in.

I am also chair of the Australian Society for Fish Biology animal welfare committee. I sit on various international advisory boards, particularly in the context of devising fish welfare indicators in the context of aquaculture. I have tabled my supplementary submission, which was distributed to the Committee. To save time, I think I will just read the key points here. Before I carry on, I should really reiterate that I am not representing any of these organisations that I have mentioned. I am here in my own capacity.

The CHAIR: Professor Brown, sorry to interrupt you. I thank you very much for that introduction. We do have your submission. If you do not mind, that was terrific, but we will move straight to questioning from here.

The Hon. EMMA HURST: I want to jump in about some of the provisions that we have not discussed yet over the last couple of days. I might throw this to Ms Ward. I want to ask about the proposed provision regarding animal cruelty material. The Shooters Union argue that there should be an exemption in relation to the production of videos such as pig-dogging. I am sure other industries might want exemptions as well. Do you think it makes sense to exclude certain interest-type videos, or should we really just be removing this provision from the bill altogether, particularly given the recent changes to the Crimes Act?

TARA WARD: I would agree with the latter part of your statement, and that is that in our submission that part of the proposed bill should be removed altogether. It serves no purpose. It is unnecessary law and unnecessary law is bad law. In our submission, it will not achieve anything. It will create confusion. There will be sectors across the spectrum who are unhappy with it. I think that the best solution would be simply to remove it and the bill would be better for it.

The Hon. EMMA HURST: You say it is sort of unnecessary. Does it almost have a gagging issue with it in regard to somebody potentially—for example, say somebody sees a video of somebody doing harm to an animal and they post it on Facebook and the RSPCA ends up seeing that video. The person posting it could also be charged, is that correct, even if they were posting it because they were horrified?

TARA WARD: Exactly. That is another aspect to the proposed provision, and that is that it is too broad and will capture a wide range of things that I do not think is the intention or would be the intention. In that sense, given that the core cruelty material is already covered by the new provisions in the Crimes Act, this proposed provision is redundant, both for being unnecessary and it is also too broad and will capture things that it really should not capture, matters that should not be criminalised.

The Hon. EMMA HURST: Thank you.

The Hon. SCOTT BARRETT: Can I just join in on that conversation? Forgive my ignorance. Does that mean that pig doggers can then show videos of them catching and killing pigs?

TARA WARD: My interpretation of the clause in its current form is that would be captured and that would potentially be a criminal offence.

The Hon. SCOTT BARRETT: To share the videos or to—

TARA WARD: Yes—

The Hon. SCOTT BARRETT: —do the activity?

TARA WARD: —because it shows cruelty to animals. There is no doubt that pig dogging is cruel to the animals involved, and that could be interpreted as falling within that offence.

The Hon. SCOTT BARRETT: That is the offence you are asking to have taken out?

TARA WARD: Yes, because it is too broad. We would be in furious agreement here with the pig doggers.

The Hon. MARK BANASIAK: Lucky I am sitting down.

The Hon. EMMA HURST: I want to go into another aspect because yours is a submission that also talks about the stock animal welfare panel model. I want to get your views on that panel, if you think they should be retained and if you have any examples of where stock animal welfare panels have actually led to poorer animal welfare outcomes?

TARA WARD: Our concern would be an in principle concern. We are not directly involved with stock welfare panels. There are reports of huge numbers of animals—of course, the whole point of them is they are dealing with so-called stock animals, which means large numbers of animals. That is the underlying rationale. How do you deal with the prevention of cruelty—it is probably too late to prevent it—or deal with ongoing cruelty or suffering to animals when they are in large numbers? The problem is that the stock welfare panel would appear to be a very long and drawn out process.

This is the problem. Animals continue to suffer during that process. **Now**, I am **all for** educating animal carers but when it takes so long and the animals will continue to suffer, that's when I think it is not the best model. This may be a problem extending it to intensive animal facilities because those animals are already in very stressful situations, being intensively confined. Therefore, I am not convinced that good welfare outcomes will result from extending the panel process to intensively confined animals.

The Hon. EMMA HURST: I think you have also raised in your submission, regarding stock animal welfare panels, that they are focused on physical suffering, which is in contrast to the bill, which is now actually proposing to extend the definition of "harm" to include psychological suffering. Do you think that if stock welfare panels remain, they should be required to take into account psychological harm as well?

TARA WARD: I think that is certainly an option and it would be in the spirit of the bill because the bill does include psychological suffering, which we fully support, as animals are sentient. Whether or not that is acknowledged, they are sentient. I was thinking about this, and it could be that the stock welfare panel is devised to deal with physical suffering. That is fine. It is good. But there remains the issue of psychological suffering for stock animals. It is not that because they are farmed they do not suffer from a psychological perspective or mental suffering. There remains the possibility to pursue investigation and enforcement measures under the other parts of the Act, as long as that is clear that that can be pursued where there is clear psychological suffering. It would be outside the stock welfare panel. As long as those two processes can coexist, it may not be as bad an outcome.

The CHAIR: Mr Robertson, did you wish to add to that?

IAN ROBERTSON: Yes, if I may. On these points, I think what is a key consideration, whether it is pig dogging, stock welfare or any activity involving an animal and its wellbeing, the last few minutes have highlighted three points. First, what difference would there be in a foundational law that affects all people, their behaviours towards all animals and, consequently, all activities and current standards—looking for exemptions or whatever. What difference would it make to have positive animal welfare as a matter of law? I appreciate that there is a spirit of extending those responsibilities beyond cruelty.

Point number two is that—you were talking about the physical wellbeing of the animals. That is why we have suggested that we mirror any law reform and mirror the wording and the contemporary science of the five domains. The five domains establishes the scientific authority in much the same way as the five freedoms did half a century ago. The wording of the five domains sets out that animals experience physical, mental and emotional suffering. The five freedoms, half a century ago, resulted in law reform that extended the duty of care beyond just a responsibility in respect of blatant acts of cruelty and extended enforcement powers and responsibilities to preventing likely or foreseeable—"likely" is the key word in law—suffering. The five freedoms was instrumental as an authority and the wording for that law reform.

What we are submitting is that the five domains, which has now superseded the science of the five freedoms, now represents the benchmark for truly modern animal law that affects not just the animals' experience but also the interests of people on a private, public or international stage. The three points are: What difference would it make with positive animal welfare law? The second point is that the five domains is the new reference of contemporary animal welfare assessment. The third point is, if we are going to utilise words that reference the authority or engage the concept of the five domains, let's use the words of the five domains and therefore extend

that discussion beyond not being cruel to them. We retain that, as Ms Ward mentioned. Extend those responsibilities to provide for their positive states as well. Those were the three points.

Ms ABIGAIL BOYD: I suspect we will be having a discussion about sentience a bit later on. I am sure we will not avoid it because we love talking about it. I wanted to touch on a couple more of these specific points, Ms Ward, that you have raised. Thank you very much for your detailed comments on the bill. In one of your recommendations, you talk about restricted procedures that should be carried out only by a veterinarian with pain relief. We have got some obvious ones there—mulesing, dehorning, castrating and ear tagging. You have put in brackets there "as appropriate". Can you talk us through the importance of pain relief for those procedures and when it might not be appropriate?

TARA WARD: Which page is that one, sorry?

Ms ABIGAIL BOYD: The bottom of page 7.

TARA WARD: That is probably a semantic issue there, hopefully. Possibly, "as appropriate" is referring to whether by a veterinarian and/or pain relief. I must admit I did struggle with how to express that, so apologies for any confusion. Pain relief for all of those procedures would be a minimum. In an animal welfare paradigm, ideally, a veterinarian would administer these procedures as well but, at the very least, they should be administered with pain relief. I think we mentioned that is going no further than the consultation outcomes paper, which did refer to the high industry uptake of voluntary use of pain relief. Really, it should be an uncontroversial proposal.

Ms ABIGAIL BOYD: Another one that you have mentioned here that seems quite uncontroversial to me relates to the offence proposed in section 29 relating to injuries to animals that are struck by a vehicle, which excludes birds. Why does it exclude birds, do you think? What is the historical background there?

TARA WARD: I can only go to the history from a legislative perspective. It is in POCTAA, and as we all know that was introduced or passed or commenced in 1979—I think it was. I have not looked further into it. Whether it is a matter of expediency and that there are too many of them and we do not need to worry about their suffering, I think we have moved on from there and that birds are definitely included in the definition of "animal". I think in the science—and I defer to the experts on the screen—birds would be sentient and therefore there is absolutely no reason why birds should be excluded from that provision, which just suggests minimum measures that can be taken when you have caused an animal to suffer.

The Hon. SCOTT BARRETT: Going back to the stock welfare panels, one of your recommendations, Ms Ward, was about publishing the details of those stock welfare panels. With the idea of these being sort of an intervention before it becomes an animal welfare issue, would that not be a deterrent for a producer to get involved if at the end of it the details are all going to be released publicly?

TARA WARD: I think we suggest that the non-sensitive information be disclosed. It would not be pointing the finger at individual animal managers or carers or farmers, but I think the community needs to know what the outcomes are from these stock welfare panels in terms of the animals. How can we possibly assess whether they are working if we do not know what the initial situation was, what measures were taken and what the outcomes were for the animals? There is no way of assessing or evaluating that whole mechanism if the community does not know. In one report—and I think we refer to it in our submission—large numbers of cows in that example died during the process. That is a serious concern and we would want to know that because we would factor that into the very legitimate question of: Is this working?

The Hon. SCOTT BARRETT: When you say "reports", do you mean actual reports or that you have heard that this happens?

TARA WARD: By enforcers. I think we refer to it in one of our footnotes. I think it was an RSPCA blog that referred to large numbers of cows in that instance dying during the process. As you would have seen from the bill, there are many stages. First of all, there must be an initial welfare situation otherwise it would not come to the attention of authorities. That has to be referred. Then the process has to be instigated. It has to be investigated. It has to be reported on, and then I think there are recommendations from the Minister or the relevant authority. I would imagine that that process is going to take some time, and all the while you have animals who were suffering to start with. That would be our concern from an animal welfare perspective.

The Hon. SCOTT BARRETT: I have a question about the poisoning of animals. Do you see any other alternative at the moment and do you think it would be okay to not have a control mechanism for pigs and wild dogs and the long-term animal welfare issues that they can and do cause?

TARA WARD: We would certainly oppose the use of poison on any animal, as I think we have stated, given the immense suffering that it causes. It does not discriminate between the labels we give to animals. In terms of alternatives, I think that we are a smart species and if we applied the appropriate resources and effort into

coming up with alternatives, I think we can. I think for too long we have relied on the easy solution, which is an incredibly cruel solution. It could be fertility control for one; it could be managing habitats differently. I am sure there are solutions out there; we just have to adopt them rather than the first-resort cruel solution.

The Hon. SCOTT BARRETT: But without an alternative at the moment, a ban on—

TARA WARD: How long does that last? We will just go round in that circle. There is not one now so we have to keep using the cruel one. We have to break free of that cycle and be the smart species that we are, or we think we are, and come up with properly humane alternatives. I am sure we can do it.

The Hon. SCOTT BARRETT: Could an instant ban, though, not lead to worse animal welfare outcomes?

TARA WARD: I do not think anyone is proposing an instant ban. Apologies if our submission gave that impression. With any of these measures where we are dealing with entrenched practices, it is obvious that we would need some kind of phasing in or out period.

The Hon. MARK BANASIAK: I might start with you, Ms Ward. I wanted to get some clarity on your position in your submission. At No. 7 you talk about recreational fishing and you say:

It is unreasonable because reasonable alternatives exist both in terms of recreational activities and food sources.

What is the alternative in terms of the recreational activity and what is the alternative in terms of the food source? Are you just trying to legislate away people's freedom to make that choice?

TARA WARD: The whole point of legislation is to regulate freedoms, so I certainly do not resile from that. Why not enjoy the lake or the river or wherever you are trying to capture the fish or the fishes? Why not enjoy it, enjoy the scenery, sail on the lake or something? There are plenty of other recreation activities that can be conducted without involving killing animals in a painful way. As for food sources, I am sure there are plenty of people out there who may not even be vegans but do not eat fish. It is certainly not an essential food source.

The Hon. MARK BANASIAK: Picking up on that point of pain—I will probably put this to Mr Brown as well—there are various studies on both sides of the fence about whether fish do feel pain or do not feel pain. Given that it seems to be more of a personal truth rather than an objective truth, given that objective truth is not contested, why would we be legislating based on that fact given that it is a contested area of science? Mr Brown?

CULUM BROWN: Certainly. The first thing is that I would disagree that it is a contested area of science.

The Hon. MARK BANASIAK: Can I point you to two studies that I have just found in about five minutes? One is from a Dr Key in Brisbane who specialises in brains, both animal and human, and he says that fish do not have the necessary neuroarchitecture to actually feel pain. There is another study done by—

CULUM BROWN: Rose.

The Hon. MARK BANASIAK: —Rose that specifically debunks whether fish have the necessary architecture to do that as well. I would put to you that it is a contested area of science. You even admitted in your submission that you are "pragmatic" and that it is "not a widely held view". Why would we—

CULUM BROWN: If I may address that, I am pragmatic in the perspective that there is a large number of people who like to go recreational fishing and that I would not personally ban recreational fishing. I am pragmatic in that that would be my perspective. In terms of the science, if you look at why those papers are cited in the way that they are, it is because they are extremely controversial. If I may tell you basically there the principle behind them, they basically state that unless you have a human cortex, you are incapable of suffering, which would rule out just about every animal on the planet other than a select number of primates and mammals. If you take that approach, then you are basically assuming that other than human beings and a select number of mammals no other animal is capable of feeling pain.

The reality is that the vertebrate brain and the associated nervous system, the hormones and everything are highly conserved across all vertebrates, which is why just about every country in the world recognises fishes in their definition of "animal" and it is included in the animal welfare legislation around the world. Are there some people out there who dispute that? Yes, but they are by far and away the minority of scientists. We can never be 100 per cent certain on this because, actually, there is no way to physically measure sentience. So I have no idea what you are thinking right now or what Ian Robertson is thinking right now because it is a private thing—what goes on inside your mind and in other animals' minds. It is exactly the same problem. But fundamentally the evidence we now have for sentience in fishes and the capacity for feeling pain is as good as for just about any other animal.

The Hon. MARK BANASIAK: By extension, picking up on that point that you were making that you cannot possibly measure it, how do you enforce it? In particular, how do you measure this area of psychological harm, which has become a bit of a contentious issue? We have received various opinions from stakeholders. Is psychological harm more a symptom of the other physical welfare concerns that that animal might be experiencing? Is that just a manifestation of the fact that it might not have enough water or food, or might not be getting the right medical attention? How do you measure that to then enforce it? I guess that is the problem that we are coming up against.

CULUM BROWN: I do not know if you would like me to answer that, but if you have ever been to the doctor with a significant injury the first thing they do is ask you on a scale of one to 10 how much pain you are in. We currently have no way of even quantifying pain in humans, let alone any another animal. So what you have to do is rely on signs and symptoms. Is this person suffering? How badly are they suffering? Has their behaviour changed in such a way that suggests to me that they are suffering? That is the only way that you can do it, and that is true of all animals, including people.

The CHAIR: Would Mr Goldsworthy like to say something? I have seen you have been quite animated.

DANIEL GOLDSWORTHY: Yes, I am nodding furiously in agreement with Professor Brown. There is nothing specifically to add to this point unless there is a question you might have of me. But my colleague Dr Ian Robertson is a veterinarian and a barrister. I know a number of these questions, specifically about being able to measure—Professor Brown has provided some great incisive insights there—these positive affective states, or affective states generally, about mental, emotional states that animals experience and the ability to measure them and quantify them, are questions that are obviously critically important. I suppose the contributions that I would be happy to give, and my area of expertise, would be around statutory interpretation and statutory construction. So on that particular question, I might defer to Ian, if that is okay, if you have anything to add there.

The CHAIR: Ms Hurst has a follow-up question that she wants to ask.

The Hon. EMMA HURST: Yes, I will jump in here with a follow-up question from Mr Banasiak's question to Professor Brown. In their submissions, some fishing industry groups have argued that decapod crustaceans and cephalopods should not be recognised as animals in this legislation. Is there any scientific basis that you are aware of to argue that decapod crustaceans and cephalopods are, in fact, not animals?

CULUM BROWN: Again this comes back to that definition of "animals" and to the extent to which we have reasonable reason to believe that decapod crustaceans in particular—not all crustaceans, just that particular group because that is where the work has been done—and cephalopods, so there we are talking about things like octopus and squid. For both of those groups, there is a long history of pretty well-established scientific research, particularly in things like crayfish, various species of crabs and those sorts of things. Most of that work has been done in Europe. There is very little of that work that is done here. Most of the work on cephalopod cognition and sentience has been done by labs, again in Europe, primarily in France. The evidence, certainly for cephalopods, is pretty good, and it is not surprising that cephalopods are almost universally recognised in the definition of "animal" around the world, whether it be the EU, Canada, the UK, New Zealand and all these sorts of countries—the sorts of countries that we often benchmark ourselves against. I do not think that is controversial.

The decapod crustacean is certainly the next one. The evidence there is, I would say, reasonably good—certainly beyond any kind of reasonable doubt—that this is the new and emerging group that would be capable of suffering. If you multiply that out by the sheer number of animals that we are talking about, the overall welfare impact is quite high. In fact, the science has now moved beyond that, and we are now thinking about other invertebrates. It looks to me like the Hymenoptera are really going to be the next group. That would be bees, wasps and ants. They have quite sophisticated behaviours. So the science has now moved beyond decapod crustaceans and cephalopods, and it is moving well into the invertebrates.

The Hon. EMMA HURST: Thank you so much. I turn back to Ms Ward. One of the submissions that we received suggested that any person charged with an offence should be given the right to challenge the claims prior to even going to court. I want to get your thoughts about that idea—whether it is workable or beneficial, and whether, in relation to any other criminal law, somebody is actually able to challenge a claim before they are charged by the police.

TARA WARD: I am not aware of other examples of such a mechanism in the criminal law space. I could take that on notice, but certainly nothing comes to mind. I think that is what we have the court process for, so I would regard that as being unnecessary. I can understand where they are coming from. These are highly charged and stressful situations for everybody involved. Often the keepers of the animals are doing their best, are trying within their means, but their best may just fall short of the standard that we expect of keeping animals. So

I can certainly see where charging off to the courts is not ideal. But it is our criminal justice system and I think it would serve us best.

The CHAIR: There is an opportunity for cautions to be given to juveniles, for example.

TARA WARD: So this would be based on that? It certainly would be worth exploring.

The Hon. EMMA HURST: [Disorder], is it not?

The CHAIR: No, the cautions are issued by the police without going to court.

TARA WARD: There are already mechanisms because we have the written directions mechanisms. They are already built into—and that is outside of the stock welfare panel process of course. This is just your family pet, say. So there are already processes to avoid the criminal justice system. There are penalty infringement notices. There are written directions. So I would suggest that there are plenty of mechanisms already built into the framework.

The Hon. EMMA HURST: Some industry groups have raised concerns about the particular terms "unreasonable" and "unnecessary" harm in the bill and have proposed removing words like "unnecessary" and "unreasonable". Are you concerned about those being removed so that it would not have to be "unnecessary" or "unreasonable"?

TARA WARD: I would welcome that because then harming an animal would be, in effect, a strict liability offence, and I would welcome that.

The Hon. EMMA HURST: Sorry, I think maybe my question was not very clear. To give you an example, an exemption is "in the course of, and for the purpose of, performing prescribed animal husbandry in a way that inflicted no unnecessary harm on the animal". So "no unnecessary harm" would be removed.

TARA WARD: We are talking about exemptions?

The Hon. EMMA HURST: Yes.

TARA WARD: Absolutely they have to remain. That qualification, or qualifier, on the exemptions must remain. In our submission, as you would have seen, we have recommended that it be added to all the exemptions because the exemptions are there to render lawful what would otherwise be cruelty to animals and, in many instances, aggravated cruelty to animals. We have to acknowledge that that is what we are dealing with, with the exemptions. So if they are to remain—we, of course, would fully support removing the exemptions; cruelty to animals is cruelty to animals—there must at least be that qualification, which would then enable some kind of evaluation according to current community standards as to whether that activity should be exempted and protected.

The CHAIR: Professor Brown wanted to say something. Is that correct?

CULUM BROWN: Yes, that is right. I really back up what Ms Ward is saying here. It is really interesting in the context of recreational fishing. It is obviously an allowed activity under the Act, but you want to be careful that people are conducting behaviours within that exemption that are part of the normal process of what average people in society would consider when you are catching a fish and that you do not step outside those normal activities. I think it is really important and that is just one example of the many where that sort of language, I think, is going to be important.

The Hon. SCOTT BARRETT: Mine is probably a very quick one. Back to stock welfare panels, Ms Ward, your suggestion that there could be the situation at the moment where there is no animal welfare expert on the panel—a panel that includes someone from the department who has expertise in animal welfare and stock management, someone from Local Land Services who has expertise in animal welfare and stock management, and also the RSPCA and/or Animal Welfare League—is the inference that none of those people are actually experts in animal welfare, including the RSPCA and Animal Welfare League?

TARA WARD: From memory, the way it is currently worded, the proposed clause would—I mean, it is a hypothetical and, of course, that is what we are dealing with, but it would be possible on the current construction for there not to be an animal welfare expert. So all we want to do is just ensure that there is always an animal welfare expert. I, unfortunately, do not know much about these stock welfare panels in terms of the membership. So, hopefully, you will be able to ask questions of the RSPCA et cetera, whether they are involved in every stock welfare panel. It would just be to ensure that there is an animal welfare expert on the panel because currently, the way it is worded, it would be theoretically possible for there not to be one, because I think it is experts in "animal management or animal welfare".

The Hon. SCOTT BARRETT: No, "animal welfare or stock management".

TARA WARD: "Animal welfare or stock"—"or".

The Hon. SCOTT BARRETT: True, but it also has RSPCA and Animal Welfare League on there.

TARA WARD: Okay. Well, as long as that is a mandatory component of a stock, that is all we are seeking.

The Hon. SCOTT BARRETT: [Inaudible]

The Hon. TAYLOR MARTIN: I just want to ask with regard to the inclusion or the possible inclusion of sentience into the legislation that has been brought up by other witnesses—and I think you brought it up in your opening statement, Ms Ward. What outcome would that achieve and how would it change the enforcement of the proposed laws?

TARA WARD: Well, happily, we would have that all ahead of us to find out. It is just you cannot introduce animal welfare legislation today without acknowledging the reason why we have animal welfare legislation as opposed to the welfare of tables legislation. Animals are sentient. That has to be acknowledged so that it provides that sort of interpretive tool for interpreting the rest of the legislation, why it matters that not only are we not cruel to animals but we do promote those positive—wellbeing.

The Hon. TAYLOR MARTIN: So that could possibly be something that the Minister includes in their second reading speech, essentially, and that would—

TARA WARD: Explanatory material is useful, but why would you stop short of having it incorporated into the primary legislation? Other jurisdictions have done it, are doing it. That is the direction that animal welfare legislation is moving. It would just be a great pity to see New South Wales left behind in this regard.

The Hon. TAYLOR MARTIN: Any other jurisdictions that have included it recently?

TARA WARD: The ACT, for one. Victoria has committed to using it. I think the best example is the UK's animal sentience bill, which is almost passed. It is going through their protracted—and that is an excellent model for incorporating the concept of sentience, which is not radical. I think we have Professor Brown et cetera—science acknowledges it, philosophy acknowledges it. Why is the law in New South Wales lagging so behind?

The CHAIR: We have one minute left, so I will allow Ms Abigail Boyd to direct a follow-up question to Mr Robertson.

Ms ABIGAIL BOYD: The question really is coming off of this sentience discussion, which unfortunately we do not have that much time for now. In terms of people who are opposed to the idea of embedding sentience within our animal welfare laws, can you explain, would it actually impose an undue burden or cost on industry or agriculture? I will direct that to you, Mr Robertson.

IAN ROBERTSON: Thank you for the question. In addressing that, I think there is—"would it impose an undue burden" invites questions about how much would it cost to take responsibility not just for the animal's cruelty, which is negative states deemed necessary, but also for its positive states, defined in the Five Freedoms and a burgeoning volume of research papers that say positive states involves business in charge of animals providing animals in their care with opportunities to experience positive states. Animal welfare progress, much like when we moved to incorporating the principles of the Five Freedoms into our animal welfare, did have a cost to it. However, it was also recognised that there was a cost in not moving that way, in terms of consumer trust and in terms of opportunities for trade, in terms of just the basics of how that human-animal relationship got affected.

Providing animals with opportunities to experience positive states is already practiced by about 11 per cent of New South Wales producers, mirroring what is going on in other jurisdictions. We come back to our opening statement, that positive animal welfare duplicates your top ranks, your top performers, so it is profitable, it is doable. The question is will New South Wales continue just to protect animals against cruelty or will it incorporate positive animal welfare law that affects all people? Just as an interesting soft knowledge piece of information—

The CHAIR: I am so sorry, Mr Robertson, but we have run well over that one minute. We have gone past the time for this, but I do appreciate your evidence. I want to thank all witnesses so much for attending this hearing and for the issues that you have brought out for us. It has been incredibly helpful. The secretariat will contact you in relation to any questions that you have taken on notice. Thank you very much. I am now going to adjourn the hearing until 11.30 a.m. when we will receive our new witnesses.

(The witnesses withdrew.)

(Short adjournment)

Dr ELIZABETH ARNOTT, Chief Veterinarian, Royal Society for the Prevention of Cruelty to Animals New South Wales, affirmed and examined

Ms KATHRYN JURD, General Counsel, Royal Society for the Prevention of Cruelty to Animals New South Wales, affirmed and examined

Mr MATTHEW GODWIN, Chief Inspector, Animal Welfare League NSW, affirmed and examined

The CHAIR: I would like to reopen the hearing. I welcome the RSPCA and the Animal Welfare League NSW to our hearing. Thank you very much for being available and joining us. Does the RSPCA have an opening statement?

KATHRYN JURD: We do.

The CHAIR: Please proceed.

KATHRYN JURD: This inquiry represents the eighth occasion in two years that RSPCA NSW has provided the New South Wales Parliament with submissions in respect of vital issues of animal welfare. Animal welfare clearly remains at the forefront of the public consciousness, and we welcome this opportunity to provide these comments in addition to the advice given throughout the reform project. What has not changed? The process of legislative reform has clearly caused anxiety among stakeholders about what this could mean for them, their hobby or their industry. With the benefit of our experience and knowledge of the operation of the law, this alarm is not founded in the reality of the bill as drafted. The bill retains large parts of POCTAA, particularly in the following respects.

There are few changes to the powers of an authorised officer under the bill. An authorised officer has the same powers of entry. Contrary to evidence given before this Committee last week, an inspector can only enter a residential premises or part of a premises used for residential purposes with the consent of the occupier, under the authority of a search warrant or if the authorised officer reasonably believes that an animal is in imminent danger and requires immediate veterinary treatment. Respectfully, that is the exact operation of the current section 24E of POCTAA. The class of people with responsibilities for animals has not changed. Hunting, shooting and fishing remain exempt from liability under the bill, where those activities cause no unnecessary harm.

The retention of the "unreasonably or unnecessarily" test within the offence definition and the deletion of "unjustifiably" has caused some controversy. However, there is no real change to the operation of these offence provisions. In nearly five years, I have prosecuted or been responsible for prosecuting 313 cases, involving 9,057 animals, on behalf of RSPCA NSW. The court has never expressed any difficulty in interpreting the phrase "unreasonably and unnecessarily". The term "reasonable" occurs 98 times in the Crimes Act. They are common and uncontroversial standards used across the criminal law. Whilst some confusion is apparent, that is an educational piece that needs to be undertaken. It does not mean that the terms of otherwise well-functioning law should be changed.

What has changed? The bill now explicitly refers to psychological suffering. For the last 40 years, it has been an offence to commit an act of cruelty as a result of which an animal is unreasonably, unnecessarily or, currently, unjustifiably inflicted with pain. Pain is defined in section 4 of POCTAA to include suffering and distress. It has also been an offence to torment or terrify an animal. These are all forms of psychological harm. This inclusion reflects the social consensus ethic that causing an animal mental anguish is not acceptable. This is not new, and it has not been controversial in our experience of enforcing the law. The current framing fails regulators and the community by lacking clarity and transparency. The bill as drafted gives a modern approach that streamlines the legislation, as is the objective of the reform.

There have been some additions, whereby animals must be provided with an appropriate environment, opportunities to exercise and display normal behaviours, and require appropriate handling and transport. These are positive developments. However, the minimum care requirements should also refer to providing enrichment and social interaction, and they should also specify that an animal must be provided with an appropriately clean living environment. This change is necessary for animals distressed by having to live in hoarding situations.

There are some areas that we identify for improvement. RSPCA NSW does not support combining the legislation and contends that the three Acts as combined in the bill do not inherently fit together. The objects are generally well done but for the failure to reference sentience and the confined aspirations described within them. The failure to reference sentience is significant. The reform project will fall at the first hurdle if it misses the opportunity to refer in its terms to sentience. Furthermore, there has been no explanation given as to what risk is ameliorated by excluding a reference to sentience.

The bill could be strengthened in several other areas. Surgical artificial insemination of canines should remain a prohibited procedure. Any defences and exemptions must be informed by contemporary animal welfare science. Specifically, there should not be an exemption for police and Corrections dogs. RSPCA NSW supports the extension of interim disqualification orders, but the test should include a list of factors for the court to consider, rather than requiring the court to come to a conclusive determination about probability of reoffending.

In conclusion, we say this bill represents a major project of statutory reform. It is obvious enough that this has not been the work of a moment, but it is an important moment. We have the chance to modernise animal cruelty laws in New South Wales for the future right now. To fail to take this opportunity risks both the law falling into obsolescence because it has not kept up with public sentiment. But, worse, it risks failing animals in New South Wales now and in the future.

The CHAIR: Mr Godwin.

MATTHEW GODWIN: I have no statement to make.

The CHAIR: Before I call the Deputy Chair, can I just clarify one issue with the RSPCA. I have noted in your submission that you say the objects of the three current Acts are inconsistent with being served by one piece of legislation. Would you support the Act governing animal research continuing as a separate Act and not inserted into this? It does seem that a lot of the exemptions seem to relate to trying to push that Act into this one.

KATHRYN JURD: I think the Committee heard pretty convincing evidence this morning. I watched it; I was convinced by it. We say that the objects of the Animal Research Act and the objects of POCTAA do not comfortably fit together. As possible evidence of the difficulties that the drafters have met trying to achieve one consolidated piece of legislation—

The CHAIR: Put a round peg into a square.

KATHRYN JURD: Indeed, yes, possibly a round peg in a square hole. As I say, I was pretty well convinced by the experts from the universities and the eminent universities that the Committee had before them.

ELIZABETH ARNOTT: The only thing I would add is they are a very discrete, unique group of stakeholders in this. For the rest of the community that have to comply with this Act, it would be unusual that it would have other parts inserted that simply do not apply to the broader community. May I just make a point before we go on to the other opening. We did have a paper to table in relation to our opening. If there is an opportunity to do that—

The CHAIR: Yes. Thank you. If you would not mind, that would be terrific. Thanks for clarifying that. I will pass to the Deputy Chair now.

The Hon. MICK VEITCH: Before I go on to my other question I was going to ask, which was about tethering, I think it is important that we hear why the objects of the bill are really important, both with regard to the compliance officers in your organisations but also from the legal framework or point of view. Why are the objects of the Act so important?

KATHRYN JURD: From a perspective of statutory construction—by that I mean how a court will interpret a piece of legislation—if there is any ambiguity about how an offence provision is framed or a power-creating provision is framed, the court will look to the objects to clarify what Parliament, by virtue of taking those objects into account, must have intended the operation of that provision to include. For example, in an application I made in respect of the interim disposal of a large number of animals in the RSPCA's custody—there is not currently a test defined in section 31 (3) of POCTAA. But the court said, "Well, in accordance with ordinary principles of statutory construction, I'm entitled to take into account the fact that POCTAA is designed to protect animals. Therefore, I'm convinced this is in the interests of these animals, and I'll give you your application." That is how it works in practice.

The Hon. MICK VEITCH: Mr Godwin, why are the objects of the Act are important to your compliance officers?

MATTHEW GODWIN: I think for everybody on the ground as far as inspectors are concerned, both Animal Welfare League and RSPCA, inspectors just want legislation that can be easily applied and interpreted by the persons on the ground immediately in the situations that they find themselves, rather than having to wade through, I guess, sections that require a more thorough look and interpretation, so to speak. The more simple, the more easily applied, the easier it is for inspectors to make critical decisions on the ground.

The Hon. MICK VEITCH: My question is actually about section 34 (2) (a) which has to do with tethering. You talk about in the RSPCA submission the deficiency in the Act. For example, the provision as drafted does not include that a tethered animal can move freely or toilet itself. Are there any other jurisdictions that we

could go to that actually have provisions around tethering of animals? I grew up in the high country. My dad was a high country horseman, and he would never tether his horse. He thought that was the cruellest thing you could do to a horse. He just dropped the reins. So I am actually pretty keen to hear about this tethering issue. I think some of the current aspects of the current Act do not meet contemporary requirements. Could you explain why you think section 34 (2) (a) is deficient and if there is a jurisdiction that has a clause or provisions or framework around tethering that we can look at for the bill, that would be good.

KATHRYN JURD: I have not done a review of the other States' provisions in relation to tethering.

The Hon. MICK VEITCH: You can take that on notice.

KATHRYN JURD: I will say that the offence provision as it is refers to being able to access water, obtain shelter from climatic extremes and be able to freely stand up and sit down. Standing up and sitting down is insufficient to meet the needs of an animal over a period of time and, frankly, if all you could do was stand up and sit down for even half an hour that would be extremely restrictive, one would think. So the capacity to move about and more move away from where an animal chooses to toilet in a confined area—confined by the limits of the tether, that is, I say that can be relatively easily rectified in drafting. For the layperson to interpret what their responsibility would be under the new Act, a principle that the animal be able to move about freely is easily interpreted in practice.

The CHAIR: Can I ask a follow-up question to that?

The Hon. EMMA HURST: I have got a follow-up tethering question too.

The CHAIR: In relation to events like the Royal Easter Show, they have got different sorts of arrangements for different sorts of animals. For example, the horses would be stabled but the cattle would be tethered in the shed?

ELIZABETH ARNOTT: Yes, often at the Easter show. Yes, that is right.

The CHAIR: And their stablehands are removing their toilet—I am trying to talk about the complexity. Surely you would not regard that as an activity that should cease. Or do you? It is the complexity of how do you draft it. I would also be fully aware that to tether a dog is a bigger issue even than tethering a horse, which is not a good thing to do. I just wondered if you could get the nuance in terms of how you would draft anything about tethering that captured all of the different situations.

KATHRYN JURD: The preface to the section is, "that results in inappropriate or unreasonable outcomes for the animal". "Unreasonable" is something that can be determined by the application of experience, and the terms within the legislation itself in some cases tell you explicitly what reasonable is constituted by or unreasonable might be constituted by. If someone is removing the animals excrement so that they are not sitting and standing in their own excrement for hours or days at a time, then from my perspective that would be a reasonable method of animal husbandry in respect of that particular animal. If on the other hand a dog is tethered and is unable to move further than the confines of the table in front of me—

The CHAIR: For weeks, yes.

KATHRYN JURD: I think the difference is obvious, respectfully.

The CHAIR: It is obvious to me. I just do not know if in the legislation it is obvious.

ELIZABETH ARNOTT: I think your point about the complexity is a good one and from an animal welfare perspective there are risks of securing an animal by its head and neck that are not common to other forms of confinement. Inherently, it has some concerns around it. I think what makes it difficult in legislation—and I am not going to offer drafting as a veterinarian—is that to take every animal off a tether and say it is okay to confine it in circumstances, where the limits around confinement are not sufficient potentially, may not overall improve the welfare of the individual animal. So it needs to be looked at holistically about what is acceptable about confining an animal and for what periods of time that is acceptable.

The CHAIR: It is really more the outcome than the tether itself. It is the impact that it is having—the situation.

ELIZABETH ARNOTT: Yes, that is right. But there is that inherent risk because it is secured by its neck.

The CHAIR: It is a risk, yes. I understand.

ELIZABETH ARNOTT: And that is not common to being kept in a yard or a cage, I would say.

The Hon. EMMA HURST: I have another follow-up question about tethering. I know that dogs can get aggressive when they are left on a tether for a very long time. I have heard horror stories of dogs hanging themselves when jumping over a fence on long tethers. One thing we get a lot of calls about in my office—I cannot imagine how many calls you guys get—is the constant complaints of saying, "This dog has been tethered for months. The RSPCA or the Animal Welfare League have been out there. They said that they cannot prove that the animal has been there tethered for longer than 24 hours in a court." The changes to this legislation are now "for an unreasonable period". I know that before it was 24 hours, so if they took the animal off the tether for five minutes, how do you prove that they did that? Do you think that "for an unreasonable period" fixes those enforcement challenges for proving that an animal was tethered in a cruel way, or do we need to have a much more strict time limit in the way that, say, California does or something like that? That is for Ms Jurd and Mr Goodwin.

KATHRYN JURD: The combination of the minimum care requirements in section 13 need to be taken into account at the same time. It may be that an enforcement officer or the prosecutor would determine to proceed in respect of one and not the other or both in the alternative to each other. So the minimum care requirement would not be met, in my view, if there were not appropriate opportunities to exercise being provided to the animal and if the suggestion is that taking a dog off a tether for five minutes every 24 hours, or possibly even half an hour every 24 hours, over periods of days, weeks or months would not meet the minimum care requirement in section 13 (2) (e) or possibly (f). If you take our submission that I referred to in my opening that it is not enough that you give them the opportunity to exercise, it is that they need enrichment and social interaction either with members of the same or different species or with their humans.

The CHAIR: If you were prosecuting a case like that, would the behaviour and physical condition of the animal be part of the evidence that you are presenting?

KATHRYN JURD: Yes.

The CHAIR: If you did not have any evidence that either was a problem, then you probably would not be prosecuting the case, if the animal was behaving happily and had no physical detriment?

ELIZABETH ARNOTT: As someone who has given expert evidence in respect of these types of cases, there are a couple of ways to approach it. One is what you look at is whether there has been a significant deprecation of the animal's needs. There are a couple of ways of looking at that. It is absolutely what you are saying, by examining the animal. That might be behavioural observations, it might be pathological observations like pressure sores suggesting they did not have a comfortable resting area or it might be by way of looking at other health-related physiological measures. So that is true.

There is also a really large body of evidence emerging for some species about what it is then they have need for and what the long-term health and behaviour consequences are of living in certain environments. It is possible to draw on the evidence of what their environment is and what damage that is known to do in their species. Also, it is really relevant to refer to existing guidelines that provide some really useful information about this, and when I give evidence it is certainly useful to look at what the Department of Primary Industries says is acceptable. It is useful to look at codes of practice if it is relevant to a breeding establishment that talks about the area that should be given to an animal. That is certainly relevant to the extent of the tether. Yes, looking at the animal is important, and adducing their mental and physical state. But there is also a lot of other evidence about how they might be impacted.

The Hon. MICK VEITCH: My question is again drawing on the RSPCA's submission, but it is around dogs in vehicles. You talk about the inconsistency in the draft bill in your submission, but you are essentially calling for a power for an authorised officer to enter a vehicle where the animal is "in imminent danger of significant physical injury or harm". Can you talk further to the Committee about why you want that provision changed in the bill to reflect that?

KATHRYN JURD: It is the same statutory test that is in the current section 24E, and I say is replicated in the draft bill at section 59 and onwards. It is the same statutory test. If you could enter somebody's home to achieve a diminution of risk in respect of an animal that was about to significantly overheat or have really poor outcomes then surely one could enter a vehicle in the same circumstances, simply to remove the dog—I say "dog" because, normally, it is a dog—or simply to remove the animal from the situation. I think the Animal Defenders Office agree with the provision that, effectively, it should have the same statutory basis for a power of entry and an exemption from civil or criminal liability once that action is taken to remove the dog from that risky environment.

The Hon. MICK VEITCH: Mr Godwin, does the Animal Welfare League support that?

MATTHEW GODWIN: Yes, we do. Yes, most definitely.

The Hon. EMMA HURST: Just to clarify, Ms Jurd, the way it runs now in practice is that you could have an RSPCA or Animal Welfare League officer looking at a car with a dog near death, but it has not reached the minutes required so they have officially broken a law, and there is nothing to allow them to take that dog out. Is that as it stands now?

KATHRYN JURD: I am just looking up POCTAA, but Dr Arnott will—

ELIZABETH ARNOTT: I will fill in. It is already an offence to cause distress, obviously. It is already an offence to expose an animal to excessive heat or cold. As I understand it, the point of adding a provision that puts a time and a temperature is it is only of benefit if it provides you with the opportunity to prevent an animal from reaching that point. I cannot find the proposed section at the moment, but as I read it—firstly, if it does not allow you to intervene at that point then it is of no purpose. But also, providing an exemption where if you park your vehicle in the shade then it does not apply—then we are back to waiting for the animal to show signs of heat stroke.

The Hon. EMMA HURST: To already be in distress.

ELIZABETH ARNOTT: Yes.

The Hon. EMMA HURST: You can actually prevent that harm happening.

ELIZABETH ARNOTT: Yes, otherwise there is no real purpose to it.

The Hon. MICK VEITCH: It is section 37.

KATHRYN JURD: Section 37, yes.

The Hon. MARK BANASIAK: I have a question on the point that Ms Jurd made about protection from liability. Are you happy for me to ask a question about that, Chair?

The CHAIR: Can I just check with Ms Boyd? Were you asking about the same topic or a new topic?

Ms ABIGAIL BOYD: I was talking about the same topic.

The CHAIR: Do you mind if she goes first?

The Hon. MARK BANASIAK: Yes, that is fine.

Ms ABIGAIL BOYD: I just wanted to round that discussion out about animals in cars, and I note that you have commented in your submission that the 28 degrees is not particularly helpful. Can you talk us through that and what you propose as an alternative?

ELIZABETH ARNOTT: I guess I was providing the science in respect of how quickly harm can happen at lower temperatures. I would say we invite the inclusion of this provision. It is just to demonstrate that there is certainly nuance there and also just emphasise the point that diluting it further by way of reference to ventilation or shade is really putting those animals at significant risk.

KATHRYN JURD: I read a reference in relation to the provision of ventilation. Even where windows are cracked 40 centimetres, which you would think is low enough for a dog to actually jump out of the car, it does not really achieve very much in terms of reducing the temperature inside the vehicle once the ambient temperature is above 28 degrees. Actually, I think it was even above 25 degrees. There is some science around, and I think we have provided those references in the submission.

The CHAIR: On notice, will you send us a specific proposal as to how that can work and what would be a good way of fixing that problem? Is that alright?

ELIZABETH ARNOTT: Yes, certainly. In our submission, we do propose various temperatures where it could be considered an offence based on the risk to the animal—for example, any period where the temperature is above 30 degrees, down to greater than 30 minutes when it is greater than 20 degrees Celsius. It probably then becomes a decision for policymakers about the application of that and whether that is a complex matter for the public to understand. But, certainly, that is the science that I am prepared to stand by that would protect the animals from this.

The CHAIR: Is that the best solution, in your opinion?

KATHRYN JURD: The four dot points on page 7 of our submission.

ELIZABETH ARNOTT: I am not sure if any of the enforcement officers have a view in terms of the enforcement of such a provision, but it is based on sound science.

The Hon. EMMA HURST: It is restricted to dogs in legislation, and I know some of the submissions talked about people potentially leaving cats, lizards or rabbits in carriers in cars if they are dropping into a vet. Should we be less prescriptive of species?

ELIZABETH ARNOTT: Yes.

KATHRYN JURD: Yes.

The Hon. MARK BANASIAK: I pick up on your comments about protection from liability, Ms Jurd. I note from your submission that you support the inclusion of section 121. I want to get your learned lead looking in terms of how far that protection from liability goes. You raised that example of smashing a window, and then the officer would obviously not be liable for replacing the window because they were acting in good faith. But as another example, if the RSPCA inspector seized dogs and then those dogs were returned in worse physical condition than when they were seized, would that protection of liability stop those officers from being charged for animal cruelty? Would it stop the RSPCA shelter that was housing those animals from being charged with animal cruelty?

KATHRYN JURD: I cannot adopt the premise of your question that a dog would leave RSPCA custody in worse condition than it was seized from.

The Hon. MARK BANASIAK: We will probably get to the evidence of that in another inquiry. But in theory, would that protection of liability allow for that to occur?

KATHRYN JURD: The way statutory exemptions work in respect of things undertaken by law enforcement officers is that as long as it is done in good faith and in accordance with the exercise of the officer's powers under the legislation, that is the twofold statutory test for the provision of the liability exemption. As long as the officer (a) was an authorised officer, (b) was acting in accordance with their powers under whatever Act you are talking about and (c) was doing it in good faith then the liability exemption would protect them, yes. But the liability exemption does not operate indefinitely into the future.

The Hon. MARK BANASIAK: I guess the complexity would be that the person that was seizing the animal would not necessarily be the person that was caring for the animal at the shelter. It would be two separate officers too, would it not?

KATHRYN JURD: It may not even be the RSPCA shelter. It may be a registered veterinarian in Timbuktu or it could be an exotic specialist. Animals seized by the RSPCA end up being cared for in a variety of ways and in a variety of locations.

The Hon. SCOTT BARRETT: Just a couple of questions—sorry, Mr Godwin, this will probably not be for you—for anyone who has been involved in stock welfare panels.

MATTHEW GODWIN: No, I do not have any experience there.

The Hon. SCOTT BARRETT: RSPCA then, can we briefly touch on them and how successful they have been in averting animal welfare issues further down the track?

KATHRYN JURD: I do not have the exact statistics at my fingertips but, as I understand it, only about half of the matters that proceeded to a stock welfare panel resulted in an order for the seizure or sale of the stock that was the subject of that panel, the inference being that half the time the primary producer comes to the party and things get rectified for the animals on the ground where they stand, in the paddocks that they have lived in their whole lives. On the other 50 per cent of times, obviously the inference is that it is necessary for a power to be exercised, currently pursuant to sections 24Q and 24P of POCTAA, to seize and sell those animals to prevent further distress.

The Hon. SCOTT BARRETT: And do you think you will have similar results extending that into intensive agriculture as well?

KATHRYN JURD: I have not inquired of the inspectorate what their anticipation might be. I cannot speak to what they expect might be the outcome. There is some difficulty in obtaining expertise in relation to some of the factors that the stock welfare panel considers. It requires some specific evidence.

ELIZABETH ARNOTT: Yes, I guess my addition to the comments is that I think in principle the stock welfare panel process is really valuable, having a mix of expertise and stakeholders, including NSW Farmers, involved in what can be an educative process, particularly in circumstances that are very complex. Some of the people the subject of these panels, it appears, would have some significant mental health challenges and a range of difficult circumstances. So where they can be interacted with in a process that attempts to assist them with advice is going to be positive and also allow them to be potentially remunerated for the sale of animals that might

otherwise be subject to dying in a paddock. So I think the principle is sound. And in terms of statistics, I think over a two-year financial year period around 2017, 2018, 2019 there were about 23 panels and there were 15,000 animals that had oversight through the process. So it seems to be important.

As far as intensive livestock operations, I think because of the scale of those operations there is the potential for things to go very badly. If someone was to run out of resources for those animals or there was a threat of infectious disease I think is really significant. So having a way to find solutions for those animals, whether that be redistribution in non-disease situations to other producers and to act before the point at which it is too cruel to keep them alive, I think has merit.

The Hon. SCOTT BARRETT: Thank you. On the list of procedures you have mentioned in your submission where you put age limits on when they should be performed—mulesing, dehorning, castrating, tailing of sheep—having those age limits, can I infer from that that although these might not be very pleasant things, they are seen as necessities and provide better animal welfare outcomes looked at in the whole-of-life context?

ELIZABETH ARNOTT: I would not holistically answer yes to all the procedures. I would say obviously there are husbandry procedures that do confer some benefits or have some necessity in a farming context, however not without pain relief. The need to put in age limits is purely to circumvent a requirement to have mandatory pain relief for painful surgical procedures because we are trying to look at the science on the point at which it might be less aversive or they recover a bit better. So absolutely our preference would be to just acknowledge the availability and accessibility of pain relief and use them in painful procedures.

The Hon. EMMA HURST: Under the new bill the RSPCA and the Animal Welfare League will only be able to do proactive inspections where they have a reasonable suspicion and that is specifically around agriculture, commercial and industrial activity relating to animals being carried out. In regard to enforcement, are there going to be challenging circumstances where people are operating a commercial animal business inside their homes and what is that going to mean on the ground if somebody was, for example, breeding animals inside the home? I might throw that to Mr Godwin first. You have probably been doing some of that enforcement.

MATTHEW GODWIN: Yes. Currently where the business is being conducted is considered a dwelling, there are restrictions under which we operate at the moment.

The Hon. EMMA HURST: But if they are tighter? Essentially the bill will say that you have to gather a lot of evidence before you can actually enter a property; you have to have a reasonable suspicion. Are you concerned about that extra level of evidence that you need to be able to provide if there was concern of an animal inside?

MATTHEW GODWIN: Potentially, yes. If there are animals inside a dwelling, currently the information that we are receiving to form part of the cruelty complaint would generally dictate that there is something occurring within that dwelling and we would take measures to seek the appropriate method of entry or other existing ways around having to enter the dwelling to investigate that potential or alleged cruelty. In my experience, what has been discovered upon initial investigation of such offences has then given us the evidence that we require to maybe apply for a search warrant, things like that.

The Hon. EMMA HURST: Thank you. I will give you the opportunity to say something too, Ms Jurd.

KATHRYN JURD: Thank you. The powers to enter premises at sections 66 and 67 of the draft bill, it is not as simple as residential or non-residential; it is residential, non-residential or—

ELIZABETH ARNOTT: Commercial.

The Hon. EMMA HURST: Outside of a dwelling.

KATHRYN JURD: Within a residential premises. POCTAA was worried about dwellings. The Crimes Act worries about dwelling houses and the Animal Welfare Bill is, I expect, trying to circumvent both of those problems by using something different, i.e. residential premises, to avoid the difficulties in interpretation where similar but different—so residential versus residential premises—are used in two different Acts. So I think that is relatively well done. In terms of your question about proactive inspections, section 66 (1) (f) allows, as long as it is conducted at a reasonable time, entry to monitor an enforced compliance with the Act or regulations where the authorised officer reasonably suspects an agricultural, commercial or industrial activity related to animals is being carried out.

As long as that reasonable suspicion can be grounded, for example, in evidence that the inspector has and holds reasonably a suspicion that, for example, a breeding facility is being conducted within a house, then to the extent that the breeding facility occupies some of the residential premises, they would be entitled to enter to inspect the breeding premises.

The Hon. EMMA HURST: Thank you for that. You mentioned, Ms Jurd, in your opening statement the disqualification orders that can be made in court when they are considered likely to commit an offence. This was something I pushed for, so I want to make sure that we get it right, if you believe that in practice it is not good the way it is worded now. In your experience, how difficult is it for the RSPCA to actually obtain a disqualification order with the terms that are used now? Are courts reluctant to impose them and, if so, how do we fix this?

KATHRYN JURD: The section 26 definition in POCTAA of "disqualification order" has that big broad meaning that used to come as 31 (a) (b) (c) with all of the ones, twos and threes. What we have done is fix that so it is easier for the court to order it because all they have to say is, "In accordance with section 31, I impose the following order." But "likely to commit further animal cruelty offences" can be a difficult bar to reach because often animal cruelty defendants are not otherwise known to the criminal law. There can be matters regularly where six animals die in a house on one person's watch but they are otherwise unknown to the RSPCA or the criminal law. Proving to the court's satisfaction that they are likely to commit a further offence relies only on the fact that it has happened on one occasion previously.

I think we do a decent job of arguing that there is enough evidence that six deaths is sufficient and that the court should not risk that person—whatever wheels have fallen off to cause the death of six animals are such that the court should restrict the person's ownership of animals for a reasonable time into the future, possibly three or five years. But beyond five years on a first offence, it can be very difficult.

The Hon. EMMA HURST: When you say that they are otherwise unknown to the courts—and I have spoken to quite a few people in this space about it—there seems to be two different systems. They could actually be in the other system, but sometimes that does not reach the RSPCA or the Animal Welfare League and it often does not reach the courts, even if they have got other criminal records. Is that what you are also hinting at or are you saying that they are brand new?

The CHAIR: Or child protection issues before the court.

KATHRYN JURD: That has, to a certain extent, been rectified by virtue of the RSPCA and the New South Wales police MOU that allows the convictions recorded and sentence outcomes obtained in respect of RSPCA prosecutions to be placed onto a person's criminal record. That is a project that commenced possibly in July of last year. There is the capacity to back capture some of the court outcomes. That is a project that is ongoing. What I mean is truly unknown. I mean that there is no evidence that that person—

The Hon. EMMA HURST: They are first offenders.

KATHRYN JURD: As a prosecutor appearing on sentence, I tender a person's criminal history, which the police prosecutor provides to the court, in court. I know what is on their police history and the inspector knows whether or not they have come to our notice and, more often than not, they know whether they have come to Animal Welfare League's notice too. The conversations between the enforcement agencies are pretty good on this front. There is also the alternative to submit an iAsk request to New South Wales police for information or intel rather than criminal records. I think that gets covered pretty well. It is just that these people are otherwise truly unknown to the criminal law. In a not dissimilar way to what the court says, and there is Court of Criminal Appeal authority about sex offenders, they are often before the court for their first ever infringement of any sort.

In my experience of 15 years prosecuting, it is not uncommon. The main concern we have is getting disposal orders whilst a matter is still on foot because disqualification orders are kind of that catch all. The section 26 disposal orders can be quite difficult because the court is reluctant to appear to prejudge the matter that is before them, for good reason. It is my job to prove beyond reasonable doubt, if I can, that a person committed an offence. The court rightfully says to me, "How can I order the disposal of an animal"—and by disposal I mean forfeiture—"in your custody before I have found the person guilty or not guilty? Right now they have retained the presumption of innocence and you need to satisfy me that this is appropriate." That is why in our submission I refer to a list of factors that I think should be included as factors for the court to consider, rather than a conclusive determination of "would be likely to do this again". I think that is a bar that—

The Hon. EMMA HURST: Is too high.

KATHRYN JURD: —the court is going to have trouble convincing themselves of, even where, for example, a person has a prohibition order that they are not allowed to have more than five horses. The RSPCA has 46 horses in its custody and I cannot return at least 41 of them, so what do we do? I need an order from the court to allow us to adopt those horses out, for example.

The Hon. EMMA HURST: That makes sense. I have some questions about the enforcement of the minimum care standards and how they will work in practice. I am wondering how difficult you think it could be to prove in court that an animal has been deprived of clean water for 24 hours or shelter if they have been inside

for 30 minutes once a day. I am wondering whether this whole idea of a 24-hour time frame is practical from an enforcement point of view.

KATHRYN JURD: I do not want to hog the answers.

MATTHEW GODWIN: No, by all means.

KATHRYN JURD: The statutory presumptions that are at 15 (1) (b), 16 (1) (b) and 17 (1) (b) are just presumptions. They are not the be-all and end-all of working out whether an offence contrary to section 13 has happened. For example, if a neonate kitten is not provided with appropriate drink—they have changed it from "proper and sufficient" to "appropriate" drink, which, in that case, would be cat milk.

The Hon. EMMA HURST: It actually says "water" in the new bill, which is something that I was concerned with because—I think POCTAA was "appropriate drink" and now it is "water". I do not have it right in front of me, but I was wondering about that. In another section it says "appropriate drink".

KATHRYN JURD: Section 13 (2) (a) says "access to appropriate food and drink". That is sufficient, in my view.

The Hon. EMMA HURST: So we can use that instead of "water".

KATHRYN JURD: If section 16 (1) said "drink" or "appropriately clean" drink—the point is that often the access to water is not water that any animal would choose to drink. The cleanliness of the water is relevant there and I would urge you not to throw the baby out with that water. Keep the cleanliness, but if you want to change it to drink, then—

The Hon. EMMA HURST: No, I think it was actually transporting animals and it said that they must have water or something. Sorry, I have not written it down. I just remembered from when I was reading through it. I think you are right that you can always go back to the minimum care requirements where it does say "drink".

KATHRYN JURD: That is what I would do.

The Hon. EMMA HURST: Somewhere else it was talking about water and I thought, "Don't we want appropriate drink?"

KATHRYN JURD: That 24-hour statutory presumption, in 4½ years I have never used it. I do not need to use it.

The Hon. EMMA HURST: That is what I thought.

KATHRYN JURD: Proper and sufficient happens at the point that it is required. If there is not proper and sufficient water in the midst of a 38-degree day in the middle of a paddock and there are 45 horses on the paddock, then I do not—

The Hon. EMMA HURST: Do you think that would hold up in court if they said, "No, I was just getting water. I was changing it"? That is not something that happens in practice?

KATHRYN JURD: No. The harm we are trying to ameliorate is not an allegation that water has not been provided for 24 hours—it is days. Or if there is evidence of dehydration, particularly in neonates there will be expert veterinary evidence about dehydration.

The Hon. JOHN GRAHAM: Thank you for your submission, Ms Jurd. I want to ask about one aspect of your submission on page 12 where you talk about the enforcement arrangements and the idea of an independent office of animal welfare. You refer back to your submission to the animal cruelty inquiry. In that submission you advocate strongly for the good work of the RSPCA. I think we should take that as given. What that submission does not answer, though, acknowledging that good work and acknowledging where we are now, could arrangements be put in place to do this better, working from here. I invite you to address that question. Acknowledging the figures that you gave us at the start of your introduction about prosecutions and animals protected, what do you want to say to us on that question about why there should not be an independent office of animal welfare that builds on the good work you have done to date?

KATHRYN JURD: I say, based on what I understand to be the various positions taken as to how or what an independent office would look like—and even last Wednesday there were three questions about how that independent office would be framed—there is not, respectfully, consensus amongst those advocating for the independent office about what it looks like. Absent some specificity about how it would be arranged, where it would be located, who would have responsibility for budgeting it—things like that—to my mind, additional bureaucratic oversight is not potentially going to address the harm that it claims to be trying to address. From my

perspective, it is not a "hard no". I have not seen detail that would give me comfort that what it was proposing to achieve would, in fact, for the money spent to achieve it, do what it needed to do.

The Hon. JOHN GRAHAM: If that decision was taken to establish such an office, what role would you see for the RSPCA in an ongoing role?

KATHRYN JURD: The same role we have played for 90 years.

The Hon. JOHN GRAHAM: In that submission in December 2019, you identified the number of staff allocated to the inspectorate at the time—it was 43—and the funding allocated at the time, which was \$6.2 million. What are those updated figures as we sit here today?

KATHRYN JURD: I do not have those. I expect they will be provided on Monday of next week to the ACO inquiry.

The Hon. JOHN GRAHAM: Can I invite you, for the purposes of this inquiry, to take that on notice, acknowledging that you will be providing it elsewhere?

KATHRYN JURD: Yes.

Ms ABIGAIL BOYD: I want to round out the discussions that we were having in our first hearing in relation to the surgical artificial insemination. I read from the top of page 9 of the RSPCA's submission:

Unwillingness of some veterinarians to acquire the skills or equipment to undertake trans-cervical artificial insemination is an insufficient justification for permitting the unnecessary procedure where expert opinion within the profession confirm it as outdated.

Does that sum up what this whole debate is about? Is it about vets not having the current skills and procedures? Is there a way, perhaps with an implementation period or something else, that we could get this prohibited in a way that might be more acceptable?

ELIZABETH ARNOTT: I do not know to what extent individual veterinarians are having trouble with this, whether it is just not keeping up to date with the science or whether it is concern about learning a new procedure. I have genuine sympathy, reading the submissions by dog breeders about their interpretation of what this means for them because it is not accurate. Please stop me if I am labouring on something you know; I am happy to go on. But the focus on frozen semen and lack of genetic diversity is clearly driven by a belief that there is no other way to get comparable litter sizes and conception rates than surgical AI.

We have tabled a paper—it is a letter to the editor, but it is a good synthesis of the information and references to the relevant studies that can assure you and dog breeders that the fertility rates and litter sizes are the same if not better than surgical artificial insemination. We can also provide you with a link to a one-minute video that demonstrates a dog undergoing a trans-cervical insemination. It is well accepted and has caused no concerns for that dog, and is done in less than five to 10 minutes. For those reasons, continuing to undertake an anaesthetic and a surgery whereby the results are no greater but you are subjecting an animal to an anaesthetic and a surgery which, in several animals, is going to be repeated two months later by way of caesarean section, cannot be justified.

I understand that if veterinarians have not availed themselves of the ability or equipment to do the procedure, it might justify some sort of implementation period. I would note that it is a statutory requirement for veterinarians under the veterinary practices code of conduct to make evidence-based decisions with their clinical practice to stay aware of current standards of practice and to keep animal welfare in mind during their practice. If the advice from the regulator perhaps is that that is not in fact the state of compliance, then I would defer to them if that needed a period of introduction.

The CHAIR: A lot of animal husbandry involves breeding for an attribute.

ELIZABETH ARNOTT: Yes.

The CHAIR: Certainly with cattle. I grew up on a cattle farm and I know that is one of its uses. One of the dog groups suggested to us that the police and the military are using artificial insemination to breed certain attributes. There is a certain type of dog. They are not just taking any puppy dog into this sort of work. Could you respond to that? Because that does appear to be a reason. It is suggested that there is no reason, but I am assuming they would say there are behavioural characteristics that also appear to have some sort of genetic—

ELIZABETH ARNOTT: Yes. My PhD is in behavioural genetics of working dogs.

The CHAIR: I am asking the right person.

ELIZABETH ARNOTT: I have full respect for really selective breeding decisions because it ends up with good welfare. You get less wastage if an animal is fit for purpose. That is why some people want, either for

genetic diversity or for selection of a particular sire, to buy interstate or overseas semen. For it to be transported, it needs to be frozen. I totally accept that and that makes perfect sense. However, that semen can, as successfully, be used with trans-cervical insemination. That seems to be the leap—

The CHAIR: It is the [disorder].

ELIZABETH ARNOTT: Yes—that is not being understood or agreed with. But you have been provided with lists of peer-reviewed published literature. There was one specifically in 2005 in 137 greyhounds, so we know it to have good results. Actually, by all accounts of the registered specialists in reproduction, it is something that can be easily learnt in general practice. It is just that vets are very comfortable with accessing a uterus because we desex animals a thousand times a year; we could do it with our eyes closed. But it does not mean that it has to continue like that necessarily.

The CHAIR: Thank you. I appreciate the clarification.

KATHRYN JURD: Perhaps we might provide the link to Committee members. It is 58 seconds. Dr Arnott sent it to me last night, and I was astounded by it, as a non-veterinarian. The dog hops off the table at the end.

ELIZABETH ARNOTT: But to the point of earlier questions last week, if it is an act of veterinary science then there is nothing stopping the provision of sedation, which is perfectly acceptable, if required.

The Hon. MARK BANASIAK: Ms Cusack, can I ask one final question?

The CHAIR: Yes, certainly.

The Hon. MARK BANASIAK: It goes to proposed section 103 about annual reporting. I note, Ms Jurd, that the RSPCA stated:

RSPCA NSW supports arrangements for Approved Charitable Organisations (ACO) reporting to Parliament ...

But you note "additional administrative and personnel impost" in doing so. Specifically, you mention the \$500,000. Is it purely a financial thing or are there other factors when you talk about administrative and personnel impost? How may this Committee or this Parliament ease that personnel and administrative impost?

KATHRYN JURD: By "personnel", I mean we have one administrative officer who is responsible for compiling the statistics necessary to report on a 12-monthly basis as it is, pursuant to section 34B of POCTAA. So it is not a personal objection, it is a personnel issue.

The Hon. MARK BANASIAK: Yes. So it is just purely a cost thing?

KATHRYN JURD: It is just we have a single administration officer. We are a charity and so it is what it is; there is an impost for additional oversight. But since December 2019, and I think Mr Graham referenced our reporting. we have evinced—we are attending today, we are attending next Monday, I was here for greyhounds in December. We are very happy to assist the Parliament and individual committees this way.

The CHAIR: I thank the witnesses very much for your evidence today and also thank you for the very important work that you do, often not fully understood. I appreciate the time that you have taken particularly to assist the Parliament. The secretariat will follow up with you in relation to any questions that were taken on notice.

KATHRYN JURD: Certainly, and I will send the link to the secretariat.

The CHAIR: That would be terrific, and they can then circulate it to the members. Thank you very much.

(The witnesses withdrew.)

Mr MICHAEL DONNELLY, President, Animal Care Australia, affirmed and examined

Mr SAM DAVIS, Vice President, Animal Care Australia, affirmed and examined

Mrs LYN BRAND, President, Dogs NSW, sworn and examined

Ms DEIRDRE CROFTS, Animal Welfare and Community Liaison Officer, Dogs NSW, sworn and examined

The CHAIR: Does Dogs NSW have an opening statement?

LYN BRAND: Yes, we do.

The CHAIR: Please proceed.

LYN BRAND: Thank you. To the Hon. Catherine Cusack and members of the Committee of inquiry, Dogs NSW welcomes the opportunity to reply in person today, giving continued support to the intent of the draft Animal Welfare Bill 2022 to provide the highest standards of animal welfare for all animals. Since the days of Prime Minister Paul Keating and Professor Hilmer there has been a concerted effort to reduce unnecessary regulation by State and Federal governments. We need to question the need for any increased government intervention and new legislation, and ask, "What purpose does it serve?" For example, regulation of the number of litters per bitch and the limits on breeding age—if there is no need to be served, there should be no legislation. In addition, Dogs NSW already does regulate as per many of these regulations.

The key areas which Dogs NSW has concerns about in the bill are: providing feedback on a document which refers to regulations that are not provided or complete; clarification on determination of excessive heat or cold; "exhibited animals" as a definition that affects our particular organisation; the transporting of dogs—as in, the definition of "vehicle"; powers to enter premises particularly are of concern to us, as how can this be achieved without a warrant, which is required by police to enter premises—we do object strongly to this and the lack of provision of appeal, which we think is a complete denial of natural justice; the level of penalty; most would not be able to afford legal representation; there is no provision for witness or support which could lead to our members being fearful, intimidated and confused at the least; and the question of surgical insemination.

The question has arisen as to whether surgical insemination of bitches should be allowed. One might also discuss whether male children should be circumcised without anaesthesia. This discussion is outside the terms of reference of this inquiry. Surgical insemination is performed by registered veterinarians, who are regulated already by a number of State Acts, principally the Veterinary Practice Act 2003. Acts of cruelty are already covered under the Prevention of Cruelty to Animals Act 1979. Veterinarians are also governed by a strict code of conduct. It is inappropriate and outside the terms of reference of this Committee to sit in judgement of specific procedures within a long list of acts of veterinary science.

Dogs NSW is the primary recognised body of registered canines in New South Wales, spanning many decades in areas where our organisation maintains health—physical and mental—and educational areas, where our members' dogs are involved in conformation showing, sheepdog herding, earth dogs, agility, dancing with dogs, tracking, obedience, scent work, and draft dog work, just to name a few. Each of our members has a unique, traceable membership number. All members' dogs have a unique identifying number. All members' dogs have an independent microchip number, which is verified in the identifying Dogs NSW registration certificate.

All our members must complete a written theory examination before being allocated a breeder's accreditation, and all premises are physically inspected by a Dogs NSW approved premise/prefix inspector before a breeder's prefix is issued. Our Dogs NSW Code of Ethics enforces restricted breeding of females, with no more than two litters in two years, and a minimum age of females to be bred for smaller breeds and larger breeds. Dogs NSW has a maximum number of litters that a female can have in a lifetime and an age limit on breeding.

The CHAIR: Excuse me—I do apologise for interrupting. In terms of the terms of reference for the inquiry, I was just wondering if you had any other brief comments as an opening statement on the legislative framework?

LYN BRAND: Yes.

The CHAIR: Thank you. I do apologise; we only have 45 minutes.

LYN BRAND: Okay. In conclusion, we have demonstrated and actioned the intent of most areas of the above bill in its own regulations. There are, however, some incongruencies and Dogs NSW looks forward to continued collaboration with the NSW Department of Primary Industries in the support of all animal welfare.

The CHAIR: Thank you for your cooperation. Does Animal Care—

MICHAEL DONNELLY: Yes, we do. Thank you, Chair. I ask that, first, our statement be tabled, if that is okay?

The CHAIR: Yes, please.

MICHAEL DONNELLY: No problem. Animal Care Australia, or ACA, represents keepers and breeders of animals nationally. Our goal is to promote and encourage high standards in all interactions with the animals in our care. Firstly, to start off with, we have a new Animal Welfare Act with no definition of animal welfare. ACA has detailed recommendations in our submission, but some key points we would like to highlight are: education to measurably improve animal welfare outcomes must be enshrined within the Act; the implementation of a Companion Animals Welfare Panel similar to that of the Stock Welfare Panel; and enforcement activities must be subject to strict accountability and transparency provisions, which are currently missing from this draft. These matters must be resolved, particularly given we have no draft regulations. We recommend this Committee insists both the final bill and regulations are provided together for the consideration of the New South Wales Parliament.

ACA encourages animal welfare education over restrictive regulation. Education must be legislated to measurably improve animal welfare outcomes. In our opinion, the draft does not currently do this. Education includes the continued promotion of animal welfare standards and codes of practice. ACA is disappointed there is no requirement within the bill for key stakeholder collaboration or inclusion in the development, management and promotion of standards or codes of practice. This must be included in the Act. History tells us it should not be presumed that we would be invited to collaborate. As key stakeholders, we have not been included on the Animal Welfare Advisory Council either. A companion animals welfare panel will provide an opportunity to alleviate the intimidation experienced by pet owners and to educate and improve animal welfare.

ACA is astonished the draft bill, despite its title, is predominantly void of strategies for improving animal welfare outcomes. A minimum standard of care, although supported by ACA, does little to improve animal welfare. In fairness, the opportunity for this may exist within the regulations—but how would we know that when we have no draft regulations? For example, as has been previously stated by other witnesses, what would be exempt from, or included as, "exhibited animals"? This draft bill removes liability of the authorised officers and their organisations while making very little effort to improve their accountability and transparency. How can the New South Wales Government or the DPI claim the enforcers will be held accountable if they are not being held liable for their actions?

Charitable organisations should not have the power to act as the police, prosecution, judge, jury and media all at once. This is wildly out of step with all other legal structures in our society. For this reason, ACA is calling for the prosecutorial powers to be removed from the charitable organisations. This should not come as a surprise to this Committee as several States have removed, or intend to remove, the RSPCA as prosecutors of cruelty cases for a range of reasons.

Additionally, we do not support previous suggestions of allowing third parties to prosecute. We also call your attention to the submission from the Australian Privacy Foundation, which we fully support. The ambiguity of section 66 (2) allows for the breeding of companion animals to be classed as a commercial activity and therefore voids the requirements of entry outlined in section 67 for residential premises. This is of great concern, potentially allowing the chaos of the recent dog audits to be repeated but on a broader scale. We would like to thank the Chair and the Committee for inviting us to appear today and we welcome your questions.

The CHAIR: Thank you very much. Mr Veitch will ask the first question.

The Hon. MICK VEITCH: Thank you. Mr Donnelly, in the submission from Animal Care Australia at the bottom of page 5 and over to page 6, you talk about:

... the separation of legislation relating to the breeding of dogs and cats be united under one department and not split across the current three departments.

You also talk about the fact that there is the "Department of Primary Industries ... Office of Local Government and department of planning" as it relates to "zoning and planning laws". Why is that a problem, having those three departments in that process? If it was to report under one department, that would then beg the question: Which department?

MICHAEL DONNELLY: To answer your last question, it would be the DPI, under our current belief and understanding. They are predominantly responsible for animal welfare, and then all of the rest of these things do fall into that thereafter. So even though the Companion Animals Act is supposed to be in relation to councils and how they behave and how they interact with approving DAs and things like that, there is no current reason why that cannot be also taken over under the DPI. Our biggest issue is during all of these consultation processes, including with the upcoming review of the Companion Animals Act that we have already participated in for their

review of their online pet registry, we get to a point where we ask the specific question about "Can this be done?" or "Why is this being done?" and the first response we get, "That's outside our purview. That's that other department."

So we are trying to deal with an issue of puppy farming, or we are trying to deal with an issue of dog breeding or cat breeding, and we are only getting being able to respond to a part of the issue because the rest of it falls under someone else's department. If they all fell under one department and all this was able to be combined and we were able to liaise with just one department and resolve a lot of these issues together that way, it would make a hell of a lot more sense.

The CHAIR: The DPI does prosecutions but it does not actually investigate.

MICHAEL DONNELLY: Actually, the DPI do investigate. They actually have inspectors that investigate exhibited animal licence holders and they carry out the full audits and they carry out all of the investigations and they do also then pursue the prosecutions, where appropriate.

The Hon. MICK VEITCH: In your opening statement you spoke about the need for a definition of "animal welfare". There have been lots of discussions around the objects of the bill over the last couple of days with this Committee and in submissions, but also within the definitions provided in the bill. What would be your definition of "animal welfare"? And, I guess, the second part of my question is to do with the objects of the bill. If it is not in the definitions, do you not think the objects of the bill provide guidance around "animal welfare"?

MICHAEL DONNELLY: No. The objects do not provide adequate guidance at all. If you note in our submission, we actually recommend the changing of part of that—of one of those objectives—to include more inclusion of that. One of the biggest issues that we also find in relation to the objects is that they are split. It is like there is an object for regulation and there is an object—there is no actual object to improve animal welfare. There is just an object that says we will protect animal welfare. There is a huge difference in just protecting what is there and improving it. Isn't that supposed to be the goal of a new Act, of an animal welfare Act? We are supposed to be advancing our animal welfare. We are not supposed to be staying status quo.

The Hon. MICK VEITCH: So do you have a definition?

MICHAEL DONNELLY: As for the "animal welfare" definition, Animal Care Australia has looked at a couple of different definitions. Last week one of the witnesses before you actually recommended one of the internationally recognised definitions. So far that probably would be the one that we would be going with, but I can take that question on notice and come back to you with which one we would prefer as a committee. I would rather go back to the committee and lock that in before answering it.

SAM DAVIS: Could I add to what you are talking about with the objects? I guess ACA's main push is that we should really be spending the money on educating the community in general to improve animal welfare outcomes. And from our experience, a lot of DPI staff sort of say to us, "Well, that's for later." "Later" never happens, so we feel really strongly that that needs to be enshrined in the Act because, at the moment, it is one of the objects, sort of—although it does not say "improve"—and yet there is really very little that follows anywhere within the Act to actually improve animal welfare outcomes across. It all just becomes a compliance and enforcement document.

The CHAIR: Ms Brand, do you have any views about these matters?

LYN BRAND: Well, I do. Also, Deidre Crofts can talk on this too, because Deidre is our animal welfare and liaison community officer as well.

DEIDRE CROFTS: Okay. With enforcement, I have to say, generally with the enforcement officers, they attend premises with the assumption of guilt and then a person needs to prove their innocence. That is in contradiction with Australian—well, with common law. There should be the presumption of innocence, so I think there needs to be a greater focus on, when enforcement officers attend a premises, that they are more open-minded. Hopefully, if we can get further education out to the general public, there will be increased animal welfare outcomes across the board, not just breeders or companion animals, livestock, whatever—all animals, pets, breeding dogs, whichever class they fall into.

We need to get that education out there. I see that that is lacking in the community. We do a lot of education within our organisation. That is mandatory, that there needs to be this education, but we need to spread it far and wide. I know that the main enforcement body—they do training of their staff, but as to what they are training them for, I am not too sure. They do not share that information. But there needs to be more collaboration. There needs to be a fairer approach across the board if we want to achieve better animal welfare outcomes.

The CHAIR: Thank you. I will go to Mr Banasiak first, and then to Ms Hurst.

The Hon. MARK BANASIAK: Thank you, Chair. An issue that was raised in both your submissions was the issue with the definition of what commercial breeding is. We tried to fix this, I think, last year or the year before and the Government's response was "Well, now is not the time to do it." But now that we have an Act before us—a whole new rewrite of an Act—is now the time to get this right and solve that clause that is being abused by enforcement agencies where they are saying, "Because you've bred one dog in three years, you're a commercial breeder"? Is now the time to get this right? It is pretty simple.

DEIDRE CROFTS: Yes. I would like to make a comment there. Definitely, it needs to be addressed. In the draft bill it references agricultural purpose, industrial purpose, commercial purpose. There is no definition in the bill for those terms so we need clarity on that, definitely. How can we move forward and know the intent of the bill if there are no definitions and the supporting regulations so that we can get a full picture of what this is intended to do?

MICHAEL DONNELLY: I will tack in on that. We were just recently consulted on investigating or looking to advise on the implementation of a breeding licensing scheme that was promoted as being for larger or commercial breeders only by the previous Minister, and yet we were then also expected to define what that commercial breeder might be. The department did not define that. The Minister did not define that. We, as key stakeholders, were asked to define that. As Mr Banasiak has already pointed out, we tried to define that 12 months earlier. We were told by the department and we were told by Parliament it was not the time to do that. Suddenly we are now being put on the spot.

We are going to be made the scapegoat out of that whole process because, whatever is actually determined, as a commercial breeder, when other people that do not fit into that criteria come back and say, "We don't agree with that," the immediate response is going to be, "But you do because the stakeholders have all determined this definition". That is not how this should be working. We all should be working together. Parliament and all key stakeholders should be deciding what is what type of breeder and that "commercial" breeder should not just be defined by a particular ideology or a particular belief. It needs to be based around some fact around some science and we need to be able to all come to some form of agreement on that. Right now we do not even have that. We are not even being advised by Government what that is.

SAM DAVIS: Just looking at it from a slightly different tact and the way that the draft bill is at the moment, section 67 basically talks about entry into residential premises. As I think Animal Care Australia recommended, it is that you either need a search warrant or you need extenuating circumstances, like an emergency, or permission of the occupier of the residential premises. We have got in there that "residential premises" included all land for use for residential purposes. That is great and that is a real positive, but then when we go back and look at section 66, which is talking about access for the inspectors on other property, there are so many get-out-of-jail cards. It all becomes a little bit, where are we going here? Once you are commercial, does that mean you are not residential? I do not know. The whole thing needs—

MICHAEL DONNELLY: A tidy-up.

SAM DAVIS: —to be really locked down. We like section 67. Section 66 then adds all these ifs and buts about what is "commercial" premises. That then creates so much doubt and provides the opportunity that then sort of reneges on section 67, in essence. The other thing I was just going to mention too is in terms of how these inspections are done. They should really be as a sort of—I think you talked about the stock welfare panels, along that sort of line. I do not think inspectors in uniforms with tasers are the right people to generally be the first ones to go in and do these inspections.

I am familiar with the plumbing industry where a plumber digs the hole, puts all the pipes in, and then an inspector comes and inspects that. Now if the guy is not compliant, he does not get a fine. He is educated. They sort of say, "No, you need to use this sort of pipe now," or, "The standard has slightly changed," or whatever it is, and he fixes it and he moves on with his life, rather than going in there sort of guns blazing a little bit, which is a little bit what we have got at the moment. To me, that is what these sort of compliance audits should be, and I believe that is what they are under the current Exhibited Animals Protection Act for zoos and wildlife parks. There is an understanding that the proprietors are working with those inspectors rather than the inspectors—ultimately, yes, they can fine them but that is not the aim of the game. That is the end part for people who are recalcitrant.

MICHAEL DONNELLY: If I can add, currently you are looking at a definition or an interpretation of the "commercial" breeder based on a preface within the current breeding code of practice. It is not based on anything else written anywhere in the Act or the regulations. It is based on a preface that simply says this code of practice applies to anybody who owns and breeds dogs.

The CHAIR: Just to understand, are you saying that the current situation in the current legislation is inadequate and it is being put into the new Act and that is not acceptable? Is that the idea?

MICHAEL DONNELLY: I cannot answer that—

The CHAIR: Or has it changed?

MICHAEL DONNELLY: I cannot answer that because I cannot see the regulations to say if it is currently being put into the new Act. That is where it currently does fit or sit—within the regulation, schedule 1. It then refers you to that breeding code of practice, which then refers you to a preface that says, "This code of practice applies to all dog and cat breeders." Until we see the regulations, I cannot answer you, Chair. I do not know if that is exactly what we are saying. I guess what we are saying is that is our fear that that is going to carry through into the new Act.

The CHAIR: So you see the new Act as an opportunity to make those policy changes that you have been asking for for some time. Your fear is that it is not making those policy changes. You think that—

MICHAEL DONNELLY: That is a probably a very good summation, yes, absolutely.

LYN BRAND: And we would be in agreement, because there are no regulations.

The CHAIR: I hear what you are saying. Please forgive me, because there are so many issues in the Act, this Committee is not in a good position to actually review all of those individual issues, particularly artificial insemination. It is relevant, the fact that those comments are being made, but it is not a matter that—we are not inquiring into artificial insemination. It is kind of more of a bigger picture. That is why I asked those questions.

LYN BRAND: It is just it was originally on the paper, it was but it was never in the original consultation draft, and then it was put in there. Now we are seeing comment being made regarding artificial insemination. So it is either in the draft or it is not.

The CHAIR: That is very relevant to our hearing as to whether or not this matter is being correctly handled. Would you like to talk about that?

LYN BRAND: I would like to talk about our original consultation draft, where it was never mentioned. Then all of a sudden when the paper comes out for our response to what is being spoken about, it was never mentioned. Now we are talking about it today, and yet it was never originally in the original consultation draft for all stakeholders to respond to.

The CHAIR: Okay.

LYN BRAND: It was never on the table, and then it came to the table, and now we are talking about it. So we do not know where we stand on this issue. But if it does come into legislation and we have had no reply originally as an organisation, it has a great detriment to the breeding of purebred dogs in our country for our breeders because we live so many thousands of kilometres away from the rest of the world.

The CHAIR: Is it your impression that it is still in the legislation?

LYN BRAND: We have not been informed, in writing, that it is being removed from the banned procedures.

The CHAIR: Okay, got you.

The Hon. SCOTT BARRETT: I think this is an opportunity for you to expand more on why you feel it should not be in there as a prohibited list.

LYN BRAND: Yes, I am certainly happy to expand on that. Our organisation basically is an organisation for breeders of purebred dogs. To complete—

The Hon. SCOTT BARRETT: Sorry, can I narrow the focus down? It is not necessarily the artificial insemination; we are not against that. It is the actual procedure, surgical versus transcervical.

LYN BRAND: All right, surgical versus transcervical—and I heard the end of the last person's comment. I am not a veterinarian but I did work within a veterinary practice for 20 years, witnessing both transcervical and surgical inseminations. In Australia there are not that many registered veterinarians who have done specifically transcervical inseminations. In Melbourne there is one specialist; in New South Wales there are probably two specialists that I know of; in South Australia there is one or two.

Given the relevance of the distance in Australia for a person to travel to get a transcervical insemination versus a frozen semen or a surgical insemination, the person is going to have to travel an awfully long way to find a person that is authorised or educated well enough to do a TCI. It is not just a matter of inserting a tube for two

seconds. In my experience, some of the females that have had transcervical inseminations may stand there for 20, 25 minutes until the instrument can be inserted through the cervix. In many cases, those females have to be sedated, and it is not that comfortable for them.

When you do a surgical insemination, the whole process takes approximately 17 to 20 minutes maximum. The female has an incision about that long made and injected into her uterus is the semen. So she does not have her uterus cut open. The fact of the matter is also the amount of semen you have to use—0.5 millilitre if you are doing frozen semen, three millilitres if you are doing TCI. We are talking about neutering and desexing dogs and cats. You are looking at 35 to 45 minutes to neuter a female or spay a female. That is a surgical process. We are not going to neuter females anymore because it is a surgical process and we are worried that we are giving the dog an anaesthetic. We are also talking about neutering dogs at a younger age. If we do that, they are having an anaesthetic. We are also possibly suggesting spaying or neutering young animals, which ends up possibly in urinary incontinence and all sorts of other hereditary—well, other physiological problems.

The CHAIR: Sorry, Ms Brand, I will allow you to complete your answer, but I just need to emphasise to you and to the members on this Committee we are not going to be making any findings about this matter.

LYN BRAND: Thank you.

The CHAIR: There are only 15 minutes left, so I think it is in your own best interest that we—

LYN BRAND: Thank you.

The Hon. EMMA HURST: I would like to go to Animal Care Australia. This morning we heard from people within animal research and they said that they did not want the Animal Research Act to collapse into one bigger Act. They thought that it stood better on its own and it kind of got complicated putting it together. Some of them were concerned and some of them were not so concerned about large parts of the Act then becoming regulations and the fact that that can create some uncertainty. I wanted to ask for your opinion about the Exhibited Animals Protection Act because the same thing is happening to that Act as well as the Animal Research Act. Do you have concerns, first of all, with the Exhibited Animals Protection Act falling into this one larger piece of legislation? Do you have concerns that the majority of that Act is becoming regulations?

MICHAEL DONNELLY: When we originally submitted to the discussion papers on that, we were in agreement on all of the Acts being combined into one. Our assumption at the time, given the information we had at that time, was that we would actually be able to see how that was all going to actually happen. We are not seeing how that is all happening, so, yes, we do have concerns of what will appear in those regulations and what will not appear in those regulations. We were also under the assumption that a vast part of both the Animal Research Act and the Exhibited Animals Protection Act would actually have appeared in the Act and not all of it being transferred into the regulations. Until we see those regulations and we see what has potentially been changed or not changed, yes, we have concerns. Will we afterwards? I hope not.

The Hon. EMMA HURST: You are not sure. You cannot say at this point.

MICHAEL DONNELLY: Yes.

The Hon. EMMA HURST: You also strongly oppose the minimum holding periods for charitable organisations and you would like to see animals kept for a minimum of 21 days. Can you explain the concerns that you have and how it could go wrong if the minimum holding periods are reduced?

MICHAEL DONNELLY: Yes. Minimum holding periods are being reduced for animals that are either unidentifiable, i.e. they do not have a microchip, or they are deemed to be a young animal or they are deemed to be a feral animal. For the latter one, we have concerns about how they identify that animal to be feral because nobody within any of the shelters has animal behavioural training or understanding. How they are making that determination within seven days is remarkable and phenomenal.

The Hon. EMMA HURST: For the benefit of the Committee, can you just explain what you mean by that? I think I know what you mean, with a cat in a cage panicking, but just give us that real example of how you cannot know if an animal is wild or not.

MICHAEL DONNELLY: I will not use your cat because you have just used the cat. I will use a pet rabbit as a prime example. Most pet rabbits are not microchipped, so strike one against the pet rabbit before we even start. Most rabbits only respond to their owner, so if you have now had a pet rabbit brought into a shelter and it is in a small cage, that rabbit will retreat and it will continue to retreat. It will not respond to any person who is approaching it. It will actually react in fear. That is strike two against that rabbit. That rabbit is now marked as being euthanised within the next seven days. If it is not microchipped, nobody who has lost their pet rabbit has the opportunity to actually get the time to come back, announce they have lost their rabbit and receive their rabbit.

I will go back to the dogs, the cats and then all of the animals. With COVID at the moment, we have had people hospitalised with COVID for up to a month, even three months. How are they supposed to be able to know their animal has disappeared, has been lost, if it was not microchipped and they are unconscious or in ICU in hospital, to be able to respond within seven days? With 21 days, there is a better chance of someone declaring or seeing a lost and found ad and saying, "Hang on a minute, I recognise that rabbit."

The other issue that we have with all of this is that we have already had scenarios from our members who have lost a dog or lost a cat, contacted a shelter, and continued to contact that shelter to be told by reception that that animal is not on their records only to come back a week and a half or two weeks later and be told, "Yes, that animal was here. Sorry, it has now either been adopted out or we euthanised it last week as per the end of the 14 days or 21 days that we had to hold it." It is because the system is not structured correctly to actually allow proper and appropriate tracing of animals, particularly those that are not microchipped, and not all animals are microchipped.

The Hon. EMMA HURST: I can see you have a question too, Mr Barrett. We talked about microchipping and mandatory microchipping I think in our last hearing, however I think in your submission you talked about birds and reptiles and other animals. I am assuming that there is no mandatory microchipping for those animals because you cannot microchip them?

MICHAEL DONNELLY: You cannot. That is right. You could have a gecko that is no thicker or longer than your finger who sheds twice a month or constantly sheds. That microchip is not going to stay under that skin very bloody long at all; it is going to shed out and you now have an animal that is no longer microchipped.

The Hon. SCOTT BARRETT: My question was just about the cats and dogs. I think by law they have to be microchipped. Where is the breakdown?

The Hon. EMMA HURST: It is expensive.

The Hon. SCOTT BARRETT: Are members of your organisation not microchipping their dogs?

MICHAEL DONNELLY: No, I actually—

The Hon. SCOTT BARRETT: It is expensive to register my car as well but I still have to do it. If I do not do it, I do not get the privilege of owning a car. Is it not the same with a pet? If you do not microchip it, you do not get the privilege of owning a pet.

MICHAEL DONNELLY: Yes and no—and I agree with Ms Hurst that it is expensive—and the reason I say yes and no is because I come back to ACA's education over regulation. You can go out there and you can ask the general public and they do not even realise that the Companion Animals Act requires them to do that. There are a lot of people who will purchase animals and they do not realise that they actually have a legal obligation to have that animal microchipped or for that matter to have a collar and tag on their animal when it leaves their property. If we go back to education—

The CHAIR: Should we be requiring the seller to do that rather than the buyer?

MICHAEL DONNELLY: It should be both, shouldn't it? It is your responsibility when you buy an animal.

The CHAIR: It only has to be microchipped once, so should we allow animals that are not microchipped to be sold?

MICHAEL DONNELLY: No, that is not supposed to be happening but it is, so we need to then cover what the alternative is when it is not happening. The buyer should be equally aware that the animal they are purchasing should be carrying a microchip.

SAM DAVIS: I guess there is obviously limited funding in this area and it needs to be targeted in the most appropriate way that improves animal welfare outcomes across the State. Chasing people directly and having officers chasing people to check their animals are microchipped is probably not the best use of the funds. Educating the public so that they realise these sorts of things and also the stuff that is in either the prescribed standards or we are asking that even the Government accepts standards that our clubs already have in place as a defence to crimes and promoting that so that we raise animal welfare standards I think is a better use of funds than running around chasing people for microchips.

LYN BRAND: Can I just interrupt there? I think we are chasing the people who are doing the right thing. We are not chasing the people who are not microchipping, and the people who are not microchipping are the people who are providing the bad animal welfare outcomes. They are the people who are breeding the dogs

and the cats that are not microchipped. They are the people breeding multiple animals that are living in animal welfare issues. You are talking to people here who are part of organisations that do microchip their—

The Hon. CATHERINE CUSACK: I was actually going to ask you that question. Is it not all of the people who are not in your association?

LYN BRAND: Yes. We are here talking today about legislation where we can find fault in that we do not have regulations that we can necessarily come to grips with, but I think the bottom core of the whole matter is we are chasing people who you cannot identify. Their animals are not identified, they do not microchip them, they sell them in car parks, they sell them for bags of cash money and we have to somehow find those people.

The Hon. CATHERINE CUSACK: Both organisations have suggested we need more education. Do you have any specific ideas about how that might happen?

LYN BRAND: I think it could start at a council level, in our area particularly where our Dogs NSW premises is Penrith council. I think we should be inviting schools and we should be inviting veterinarians to come and talk about the fact that if you own a pet that you purchased and it is not microchipped, that is illegal. It is unlawful to sell a pet without a microchip. I do not think the general community really understands that when they buy a pet it is not optional, it has to be microchipped.

MICHAEL DONNELLY: I would like to add to that. Definitely within all of the current breeder associations you could commence your education. I agree with Dogs NSW that local councils could also do it, but I think we need to go back and we need to start at the very beginning. We need to be educating our children. We need programs within the Department of Education in primary and tertiary and secondary levels that actually educate our children on basic animal welfare and the basic requirements of keeping a pet. Animal Care Australia has currently been in discussions with the Animal Welfare League to do just that, and the Animal Welfare League, I am very aware, is already proceeding and continuing with that and has done for the past 12 to 18 months. We are happy to support them on that. That is where we need to be educating the most. We need to get our children to understand that if you own a pet, these are your responsibilities.

The CHAIR: I do not want to put words into your mouth, but you seem to be saying that for the law to be effective and for the reforms to work people actually need to have awareness of what they are.

SAM DAVIS: Absolutely.

MICHAEL DONNELLY: Absolutely.

The CHAIR: And there will be more compliance just by having more awareness of the law.

MICHAEL DONNELLY: Absolutely.

SAM DAVIS: Exactly, and in terms of the Act itself, when it comes in, we only have standards and guidelines mentioned once as the prescribed ones. I understand that for rodeos and maybe for breeding dogs and cats and so on you need some prescribed ones that are actually the law. But with those prescribed ones you have to get it out to the community so that they know it even exists. We found that with this puppy farm task force. People did not even know that those documents existed. In my area, which is birds primarily, people do not know that there is a breeding and keeping of birds code under DPI. Most people do not even understand that. We have our own internally, within our systems.

There is an opportunity here to promote the minimum care standard that is in the draft bill, to promote the prescribed standards, which may be for rodeos or whatever area it is, and also to accept the standards and codes, not as law but as recommendations, and perhaps as a defence to any cruelty charges as well so that they get some status, to encourage people and get that message out there to the public that these are the animal welfare codes, practices, standards and guidelines et cetera that the community expects you to abide by. I really think it is critical, when this Act is called an animal welfare Act—it is no longer the "prevention of cruelty"—that that is enshrined in the Act and that that must happen. DPI must consult with all of the stakeholders, we must promote these prescribed standards and we must even promote the ones that clubs and other organisations such as Dogs NSW have to improve animal welfare across the State rather than just trying to thump the odd people who have to be thumped.

The CHAIR: Make the resources more accessible.

MICHAEL DONNELLY: If I may, I can give you a very quick example. During the inquiry into circuses and exotic animals two years ago it was revealed that in 2019 DPI actually released a new code of practice for a circus. Now, that is a very small group. Circuses were not aware that that code of practice had been released six months after it had been published. If we are talking about a very small group—circuses—that was not made aware, how are we supposed to expect the entire public to understand that these Acts exist if we do not tell them?

The CHAIR: Very good point. Ms Crofts?

DEIDRE CROFTS: I just want to say that there is a responsible pet ownership program conducted in schools. It is conducted at all levels. That has been really valuable in getting responsible pet ownership messages on microchipping laws et cetera to kids of all ages.

The CHAIR: Who conducts that?

DEIDRE CROFTS: That is the State Government.

The CHAIR: The Department of Primary Industries?

DEIDRE CROFTS: The Office of Local Government.

The CHAIR: The Office of Local Government, thank you.

DEIDRE CROFTS: Yes, they adopted the program that was created in Victoria probably 20 years ago or more now. I actually worked as an instructor in that program for a short while and it was very beneficial to the kids. The education needs to expand to their parents. We would provide material that the kids could take home to the parents, but whether it actually got there, who knows? It is getting the message to the adults in the community about responsible pet ownership. There is that responsible pet ownership program conducted in schools. It has been on a hiatus because of COVID, but they are recruiting again at the moment, so it is still continuing.

The CHAIR: It does sound like local government would be well placed to be delivering that program to their communities.

DEIDRE CROFTS: Yes, they were driving the educational side of it, so it was very good.

The CHAIR: Thank you. That is really helpful.

DEIDRE CROFTS: I would like to make a quick comment on the exhibited animals section in the draft bill. It is a big concern to us. Currently under the existing legislation and the regulations, companion dogs and cats are exempted from any licensing or permit holding. We do not have any regulations with the draft bill. We do not know the intent or what the future will be. But if we are reclassified and are required to have permits, licensing et cetera, it will decimate Dogs NSW purebred breeders and any other purebred organisation, as we will not be able to show our dogs and cats at agricultural shows. Those shows bring huge business into the towns that they are conducted in. There is accommodation, cafés, restaurants and supermarkets. They bring in a lot of business to the local communities around the State. Everyone looks forward to the show coming to town, basically. If the exemption that we currently have is removed, it is game over.

The CHAIR: I was actually camping in Bermagui campground and all of these dogs came in and I thought, "Oh no." There must have been hundreds of dogs, but there was not one peep out of one animal the entire time.

DEIDRE CROFTS: It is huge every year.

The CHAIR: Just the care that those dogs get.

DEIDRE CROFTS: It is absolutely huge.

SAM DAVIS: Can I relay that. I know other animal groups too. There are something like 500-odd events and competitions and so on in the bird area, and obviously every animal area has the same. The exemptions that are all listed at the start of the Exhibited Animals Protection Act at the moment, surely we would have to ensure that those are carried over so that all of those competitions are not dragged into the same regulations as zoos and wildlife parks and so on.

The Hon. MICK VEITCH: It is a message we are hearing loud and clear.

The CHAIR: We will have an opportunity this afternoon. You have really helped us to know what good questions to ask the Government on that particular topic. I am afraid our time has expired. I say to Animal Care Australia, I note that you had a closing statement, but can you please accept that that is going to be taken on board and noted in the report?

MICHAEL DONNELLY: Sure.

The CHAIR: Do you have any other issue that you felt that we had missed that you would like to refer to?

DEIDRE CROFTS: Just briefly, I am a bit concerned about section 89, where a public service employee can be nominated to be an enforcement officer. That is too broad and it can be unconditional. We need to see the

regulations and what the criteria of the expanded role of enforcement bodies will encompass. It seems that they are bringing in all of these extra classes of people to do enforcement and I am very concerned that it is leading to overreach, and whether these people would have any animal-related experience.

The CHAIR: Thank you very much, we will pursue that. I thank all of you for your evidence and your care for animals. It is very obvious and very greatly appreciated. You have really assisted the Committee to know what questions to ask as we pursue the inquiry. If any questions have been taken on notice, the secretariat will be in touch with you after the transcript becomes available. There is a 21-day period to provide those answers, which is plenty of time.

(The witnesses withdrew.)

(Luncheon adjournment)

Dr DIANE RYAN, President of the NSW Division, Australian Veterinary Association, before the Committee via videoconference, sworn and examined

Ms LIZ GEMES, Senior Advocacy Officer, Australian Veterinary Association, before the Committee via videoconference, affirmed and examined

Dr ROSEMARY ELLIOTT, President, Sentient, The Veterinary Institute for Animal Ethics, sworn and examined

Dr KATHERINE van EKERT, Vice President, Sentient, The Veterinary Institute for Animal Ethics, before the Committee via videoconference, affirmed and examined

Ms RACHEL SMITH, Chief Executive Officer, Humane Research Australia, before the Committee via videoconference, affirmed and examined

The CHAIR: I will begin by asking the Australian Veterinary Association if they have an opening statement.

DIANE RYAN: Yes, we do, Chair.

The CHAIR: Please proceed.

DIANE RYAN: Thank you. My name is Dr Diane Ryan. I have been a veterinarian for the past 43 years. I am president of the New South Wales division of the Australian Veterinary Association. I am joined today by our AVA senior advocacy officer, Liz Gemes. I would like to begin by thanking the Committee for the opportunity to contribute to this inquiry and congratulate the Government for its ongoing dedication towards improving animal welfare in New South Wales. The AVA has over 8,500 members, made up of veterinarians across Australia, working in all areas of animal science, health and welfare. Veterinarians are key experts in animal health and welfare. So it is important for our views to be heard when any animal welfare legislative or policy amendments are discussed. The AVA's key policy priority is animal welfare. To acknowledge its ethical dimension, it has adopted a statement of principles that articulate the ethical basis for all of our policies and advocacy on animal welfare matters. This includes the following statement:

Humans have a responsibility or duty of care to protect animals. Where a person does not meet his or her obligations to animals in his or her care, animals may suffer. When this happens, the law must be able to adequately intervene to enforce compliance and prevent suffering.

The AVA's submission has made a number of recommendations to this inquiry. But we would like to emphasise the difficulties in commenting on a proposed bill where there is little detail available about the regulations that would be critical to the bill's application. It is essential that broad and comprehensive public consultation is undertaken in the development of the accompanying regulations. The AVA strongly believes the objects of the bill should include the reference and definition of "sentience". As an example, the Australian Animal Welfare Strategy definition states:

A sentient animal is one that has the capacity to have feelings and to experience suffering and pleasure. Sentience implies a level of conscious awareness.

Fish, cephalopods and the majority of crustacea should be included in the New South Wales review of animal welfare legislation. The AVA supports the bill's inclusion of minimum care standards. We have made several suggestions for refining these requirements. The AVA has been in consultation with the New South Wales Department of Primary Industries about the animal welfare reform process since October 2019. Over that time we have had a number of face-to-face meetings and have made several submissions concerning the review of the Animal Welfare Bill. We are pleased that many of the AVA recommendations have been included in this draft bill. Thank you again, Chair, for providing the opportunity for the AVA to participate in this inquiry. We welcome any questions from the Committee.

The CHAIR: Thank you very much for that opening statement. I would like to invite Sentient, The Veterinary Institute for Animal Ethics, to make an opening statement, if you wish.

ROSEMARY ELLIOTT: Thank you, Chair, I will do that. The true purpose of animal welfare is to protect animals, not those who benefit from their use. Since 1979, when the New South Wales prevention of cruelty to animals legislation was enacted, our understanding of the needs of animals has evolved due to advances in animal welfare science. We have seen a conceptual shift from the five freedoms model of animal welfare, which was essentially about what to avoid, towards the contemporary five domains model, whereby an animal's overall welfare is determined by their mental state. The focus is now on affording animals a life worth living. Animal sentience is being acknowledged in the legislation of other nations and already in Australia, in the ACT. Due to

the animal movement, the public now has a more sophisticated understanding of how animals should be treated and supports the idea that animals deserve a good life, regardless of how we use them.

New South Wales has long been ready for a revised animal welfare Act that will reassure the community that the scope of laws and their enforcement will meet its expectations of what is reasonable. Yet despite its inclusion of "psychological suffering" in the definition of "harm", the animal welfare Act 2022 makes a mockery of its purported intent to prevent cruelty to animals. Through an extensive list of exemptions that safeguard the vested interests of the agricultural industry—where painful husbandry, invasive husbandry practices and intensive confinement are the norm—the sporting and entertainment industries, animal research and environmental management, the Act maintains the subordination of animal welfare to profitability and convenience. Its presumption of what is reasonable is out of line with community expectations and instead is informed by existing husbandry practices and outdated traditions. Where is the scientific underpinning that we should rightly expect in the twenty-first century? Where is the acknowledgement that, like us, non-human animals are sentient beings who should not be considered or treated as property?

There is nothing progressive about this legislation. Countless animals will continue to suffer treatment that in other contexts would undeniably be considered cruel. Rather than window-dressing our current laws, we should be tackling a much broader issue. Our animal welfare regulatory system is broken. It fails the majority of animals because the Department of Primary Industries has a conflict of interest arising from having as their core business aims the promotion and profitability of the industries they are attempting to regulate. It is not appropriate for the DPI to hold responsibility for animal welfare at the State or national level. Those who care about the welfare of animals have had enough of the lack of independence, science and transparency in how animal welfare standards are developed and likewise of the failures in oversight and enforcement. Sentient joins other animal organisations in calling for the establishment of an independent animal welfare commission to oversee the development of standards, assess the effectiveness of regulation and promote community understanding of best practice in animal welfare. Thank you.

The CHAIR: Thank you very much. Does Humane Research Australia have an opening statement, Ms Smith?

RACHEL SMITH: Yes, we do.

The CHAIR: Please go ahead.

RACHEL SMITH: Thank you for the opportunity to speak today. I note that much of the detail relating to animals, research and education will be set out in subsequent regulations and therefore our feedback is somewhat limited until that detail becomes available. We also encourage further consultation on the regulations and assume that the current Animal Research Act will not be repealed until the regulations are passed. In terms of the reform, Humane Research Australia HRA is neutral about the intention of having one animal welfare Act. However, this Act must strengthen the protection currently afforded by the Animal Research Act, maintaining the status quo, whether that be via incorporating the current Animal Research Act within a combined Act or via regulations or not, to in HRA's opinion ensure high standards of animal welfare or research integrity. This is to a large degree due to the system of self-regulation via institutional animal care and ethics committees with limited regulatory oversight or public accountability. Not noted in our submission but a query I would like to raise today with the draft Act is related to section 161, Disclosure of information, which reads:

- (1) A person must not disclose information obtained in connection with the administration or execution of this Act unless the disclosure is made—
 - (a) with the consent of the person from whom the information was obtained, or
 - (b) in connection with the administration or execution of this Act or another Act ...

A number of other exemptions are listed. Paragraph (a) could be subject to misuse and (b) is unclear and appears contradictory. From HRA's perspective, information related to the administration and execution of the Act is essential for reasons of transparency and to hold the regulator to account, and therefore we are concerned at any obstacles which may prevent this. The current process of reform presents opportunities to, one, strengthen the powers and competency of the New South Wales research review panel, the continuation of which HRA supports, for example, in broadening complaints initiation criteria or mandating expertise on non-animal research methods amongst the panel; two, increase transparency and clarity of reporting, one example being through clearer defining of "recognised research purpose"; three, prohibit procedures known to cause intense suffering with questionable scientific validity, such as the forced swim test or force inhalation research; four, counter conflict of interest by the appointment of an independent office for animal welfare; five, mandate rehoming for dogs and cats used in research; and, finally, expand the three Rs to add rehoming, relevance, redirection of funding and retraining.

Additionally, HRA supports the Australian Veterinary Association recommendation that the Australian Code for the Care and Use of Animals for Scientific Purposes—that is from 2013, the last update—be reviewed. Our communications with the National Health and Medical Research Council suggest that this will not happen unless there is pressure from State and Territory governments to initiate a review. This is an apt time to do so. In response to a question asked this morning, there is no Federal body taking responsibility for oversight of implementation of the code. We would also wish this to be raised. I am happy to discuss any of the above or answer any other questions. Thank you for listening.

The CHAIR: Thank you very much for that statement. I will ask my colleague Mr Veitch to ask a question first, but I just want to clarify, Ms Smith, do you support incorporating the research bill into this legislation or do you prefer it to stay separate as standalone?

RACHEL SMITH: Really we are quite neutral because it would depend on how that previous draft is amended. We do not think it will make that much difference whether it is in the regulations or in the main Act. It will be the content that would inform our opinion. Obviously the regulations could be updated more frequently if it was in one Act, but it is really the content rather than the structure, and regardless of that structure we think there are systematic issues that need to be addressed which would operate independently of whichever structure was adopted.

The Hon. MICK VEITCH: My question is to the Australian Veterinary Association but then I would like to ask Dr Elliott as well to respond. In the AVA submission at the bottom of page 8 you talk about new offences and enhancing existing offences, but then you go on to talk about how some acts are escalated as aggravated cruelty. You say that this would assist interpretation by enforcement and legal agencies and assist in the education of animal owners. Can you talk through with the Committee why you would suggest that this would be beneficial to have outlined in the Act the phrase "aggravated cruelty" and some examples of what that escalation would look like?

DIANE RYAN: With "aggravated cruelty", it is very hard when you are just looking at the definitions that are present in the Act and what would be a more severe offence, and aggravated cruelty is a severe offence. It would be leading to the death of or would affect the animal severely enough so that it would be too cruel to actually keep that animal alive. That could include issues such as psychological suffering. We have not really considered that in the present Act—psychological suffering being an act of cruelty. I think it is something that now we do. We have seen animals and most veterinarians have seen animals which cannot survive and cannot have what you would say is a satisfactory life because of their mental status. I think that if you actually force an animal to have that, that would be a sign of aggravated cruelty.

As I said, the Prevention of Cruelty to Animals Act has been existing as long as I have been a vet, so it has been existing for a long time, and I have always been critical about the Act, especially in its definitions. It is a very hard Act to define. I know they identify certain things which are acts of cruelty but there are going to be more along the horizon which we will come in contact with and which I know that the enforcement agencies will have to be aware of. We have to give instruction or education of what those acts might be. One thing I find with the previous Act is that there is no facility for education. Education should form a very strong component of this Act. I noticed that in the Victorian animal welfare code it has four objectives, of which education is one, and I would like to see that in this Act as well, especially so people are aware of what is cruelty.

The Hon. MICK VEITCH: Thank you. Dr Elliott, do you agree that there should be a capacity for escalating offences to aggravated offences?

ROSEMARY ELLIOTT: I do, and we did not actually comment on this. I am just thinking on the spot here. I agree with Dr Ryan about the importance of an Act having an educational component. I think to do that there needs to be an acknowledgement of animal sentience in the Act and hopefully with people having clearer understanding, because a lot of animal abuse is neglect. It is not aggravated or intentional cruelty. So I hope that with better education about the needs of animals both behaviourally and physiologically we would have fewer offences committed. Regarding aggravated cruelty, I do think that that needs to have stronger penalties. What concerns me about aggravated cruelty is it is not just going to be that animal or those animals.

That person can go ahead and commit the same crimes to other animal victims, and we do know that through the link between animal abuse and human abuse these people are dangerous people. I actually would argue that they should be having a forensic assessment. It is not safe to have people out there committing acts of aggravated cruelty to animals and then just getting off with whatever they get off with, because what they are motivated by is quite different from what you see in institutionalised animal cruelty. I am not sure whether I have answered your question correctly here.

The Hon. MICK VEITCH: Can I ask you to supplement your response? In my mind I have some ideas about what aggravated cruelty would look like, but what are some examples of the escalation to aggravated cruelty?

ROSEMARY ELLIOTT: What are the indicators?

The Hon. MICK VEITCH: Yes.

ROSEMARY ELLIOTT: I agree with what Dr Ryan said, that some animals are so severely injured they may not be able to be saved. There will also be animals who can be saved, and it is an individual assessment. I am not sure whether you base it on the state of the animal, the actual act—I mean, look at human aggravated cruelty. What do they look at there? They must look at the intent. People have gone out and purchased or created poisons. I think it is the intent; it is the lack of remorse. A lot of it is in the person as well as in what the state of the animal is. You could get animals in a terrible state who had been neglected because they had not had enough water or shade or whatever in a farm. It is a very difficult one, and I would like to take the rest of it on notice because I feel like I might hold up the proceedings here. But I do believe that it is in the act, in the state of the animal and also in the psychological make-up of that person and the proof that they were actually intending to cause this harm.

The Hon. MICK VEITCH: That it could be premeditated, for instance, could be an escalating factor?

ROSEMARY ELLIOTT: Yes.

The CHAIR: What about mental illness? I am talking about things like maybe an elderly farmer who has dementia, for example. Where does that fit into cruelty?

ROSEMARY ELLIOTT: It does not change cruelty if it occurs.

The CHAIR: I agree.

ROSEMARY ELLIOTT: It would probably change whether you help somebody or prosecute them. The majority of people with a mental illness are not cruel to animals, and it depends on how you define—I mean, if you look at antisocial personality disorder, that is not really a mental illness. Mental illness is like a legal term in some ways. They are actually aware of what they are doing; they are not out of touch with reality.

The CHAIR: Dr van Ekert, did you have comments?

KATHERINE van EKERT: Yes, if I may just supplement my colleague Dr Elliott's response and also enhance Diane Ryan's, we will of course get back to you with some of those questions on notice, as Dr Elliott mentioned. But I wanted to further the point that Dr Ryan made about psychological harm and that potentially being an act of aggravated cruelty and make a note that we should be considering that within the context that the animal is in. For example, intensive farming of animals and the keeping of wild animals in captivity often leads to stereotypical behaviour that could potentially be remedied if that animal was removed from that context.

But, normally, the removal of that animal from the context is just not within the realm of possibility. I am speaking of a lot of zoo animals—elephants, for example, if you think of the elephant swaying in captivity, crib biting. There are a lot of examples of pigs kept in intensive confinement, unable to move, unable to express normal behaviour, which develop a lot of stereotypical behaviour as a result. I would say that that is an act of aggravated cruelty if you are not able to remove the psychological suffering from that animal. If that animal endures something for a day or something, that is different from them experiencing that for a lifetime. Context and duration should be taken into consideration when considering aggravated cruelty.

The Hon. EMMA HURST: Dr Elliott, I apologise if this might sound like a silly question. At the moment the bill requires anyone that accidentally hits an animal with their car to take reasonable steps to alleviate the animal's suffering, except for birds. Do birds have the same capacity to suffer harm if hit by a vehicle? If so, is there any justifiable reason to exclude them from that provision?

ROSEMARY ELLIOTT: No, I was perplexed by that exclusion of birds, actually. We know they are highly intelligent animals. They have the same capacity to feel; they are fully sentient. I could talk at length about bird intelligence, their use of tools. There is no doubt about their sentience. They have a cognitive capacity; they have the same nerve fibres that transmit pain. They exhibit social behaviour, emotional behaviour, learning and problem solving. They are not animals who just have a reflex; they have an adaptive response to situations that are harmful. I have no idea why birds are excluded unless it is because of a devaluation of birds because there are a lot of jokes—bird brain et cetera. People still do not fully understand about birds, so they are a little bit minimised. The other reason might be that sometimes birds will fly in front of a windscreen and people are on a freeway. You cannot really stop on a freeway, but you can still ring a number.

The Hon. EMMA HURST: I think the Act actually says to take "reasonable steps", so I suppose if you hit any animal on a freeway where it is not safe to stop—

ROSEMARY ELLIOTT: Yes, you would ring a number.

The Hon. EMMA HURST: You would have an excuse to say that you could not reasonably stop.

ROSEMARY ELLIOTT: You could not stop, but you could ring WIRES.

The Hon. EMMA HURST: Yes, and give a location.

ROSEMARY ELLIOTT: Yes, exactly. I am really perplexed by it.

The Hon. EMMA HURST: Thank you for that answer. Last week we heard evidence that was put to us that an animal that has been poisoned with 1080 will look as though they are in pain, but they are actually not experiencing pain. For the benefit of the Committee, are you able to give your response to that and your view as a veterinarian on whether animals who are poisoned by 1080 do experience pain?

ROSEMARY ELLIOTT: My understanding is that they do experience pain and that when they are having seizures and in between the seizures, they are aware of what is happening. Would you mind if Dr van Ekert joined me in this, because I know that she is very well up on poisons, including 1080. Is that okay?

The Hon. EMMA HURST: Yes, definitely.

KATHERINE van EKERT: Okay, I will take over. Thanks, Dr Elliott. Yes, 1080 is not a nice poison, and we argue that it should be prohibited. I would argue there are no ethical poisons out there, but 1080 is a particularly awful one. It depends on the target species as to the degree of suffering, but in general you could think of it that 1080 causes an animal to suffer for about three days. That is normally how long it sits in their system, with an onset of action anywhere from half an hour to up to 12 or 15 hours or so. Again, it depends on the species as to what types of body systems you will see suffer the most, but in general it is cardiovascular, respiratory and/or neurological systems.

As Dr Elliott was mentioning, they do suffer convulsions if they are having a neurological experience from it. They are not unconscious during those convulsions, and they are not unconscious between the convulsions. That in itself is stressful. I have not had a convulsion but, from what we know, convulsions are very stressful for the animal. They do not know what is happening to them, and they can risk serious injury during those, especially if they are so out of it that their body is out of control and they can hit themselves on the ground or on rocks and so forth. I can send you a link to this study, but there was a study done in 2010 that found that not only were they conscious during the seizures but they were able to perceive pain and experience fear and distress. Other observed signs were manic behaviour such as running into objects—again risking injury—vomiting, whimpering and muscle spasms. I am sure it does not take a veterinarian or an expert to know that whimpering is a sign of an animal being distressed. Manic behaviour is not a normal sign. Does that answer your question?

The Hon. EMMA HURST: Yes, it does. Thank you.

Ms ABIGAIL BOYD: Can I just jump in there? Perhaps this is to you, Dr van Ekert. Yesterday we again heard some people arguing that perhaps the idea of psychological suffering was too vague and hard to identify. Can you tell us from the perspective of a veterinarian what behavioural traits you would be looking for in identifying whether something was causing psychological suffering?

KATHERINE van EKERT: That is a really great question and a great point. I would like to take some of that on notice because it is such a broad scope; it depends on the species. I would like to give you some links to articles and so forth. In general, it is hard for even us as humans to identify suffering in fellow humans. It is a subjective thing, and we will never be inside the minds of another animal, another human. Again, this depends on the species, but broadly we look at behaviours. So what are their body postures, their willingness to eat, their willingness to drink and their facial expressions. They display similar facial expressions to us, like grimacing. I mentioned whimpering, in the context of 1080.

Generally it is pretty easy for a lay person to identify most forms of psychological suffering. Thankfully, a lot of animals have been so well domesticated that they have evolved or we ourselves have adapted to understanding them well. But I note that a lot of animals that we interact with are prey animals and they are very good at hiding suffering, they are very good at hiding their pain. Again, that is why I would like to get back to you on specifics because this is something you really want to investigate properly and do service to.

The Hon. EMMA HURST: I have a question for the Australian Veterinary Association. Last week we heard from the Shooters Union, who were advocating for a special exemption specifically for pig dogging, the

practice of using dogs to fight and hunt wild pigs. I am curious, as a veterinary organisation, what is your stance on the practice of pig dogging and whether you think pig dogging is a form of animal fighting or not?

DIANE RYAN: It is a very interesting question, which I think we will have to take on notice. We have a number of policies and I suppose that is one policy that I would have to check that we have. If we have, then I will present it to the Committee.

The Hon. EMMA HURST: I might throw that to Sentient as well. Dr Elliott?

ROSEMARY ELLIOTT: I had a bit of a look at a recent review of the welfare of pig-hunting dogs. The focus of this review—and this is by Bronwyn Orr et al, published 2019—is actually on the welfare of the dogs, but she highlighted also the welfare issues for the pigs. It is absolutely barbaric. She talked about, for the dogs, a little bit like greyhound racing, you had breeding surplus to requirements; some of the dogs are retired early due to behavioural issues; punishment-based training techniques involving electric shock collars, which should be banned; keeping them isolated on tethers; they were exposed to numerous infectious diseases; high rates of traumatic injury; poor transportation methods; and high mortality during the hunts.

The hunted pigs are exposed to—and I would definitely call this aggravated cruelty—absolute terror. The dogs restrain them by biting their ears, that is after they have been chased, and then what happens is the hunters stab them. So they are stabbed to death. They are fully conscious during exsanguination and the time it takes to die depends on which organs are lacerated. So it is the most barbaric thing that could happen. It is not good welfare for the dogs or the pigs.

The Hon. EMMA HURST: Thank you for that answer. I have got some questions for Ms Smith about the animal research. We heard this morning from research institutions that they felt that the current Act was robust and I just wanted to get your thoughts on whether you agreed with that statement and, if not, what protections you think are missing under our current regime. I know that that is probably a really long answer, so maybe the top things that you think might be missing.

RACHEL SMITH: I think, firstly, it is a bit difficult to really assess how robust it is because there is so limited information available—

The Hon. EMMA HURST: Sorry, I meant the current Act.

RACHEL SMITH: Yes. Even in assessing the robustness of the current Act, there are some limitations due to lack of transparency. So it is very difficult to assess if you do not receive the information as to how many licence holders there are or how many infringements or notifiable incidents have been reported or you are unable to receive annual reports from the research institutions to make that assessment. But the information that we receive from members of animal ethics committees or those associated with the research review panel or sometimes from the research community anonymously suggest that it is not a robust system and that really having a system where an institution is approving the research that it is conducting itself may mean that it is not of the highest quality or may be infringing upon animal welfare. So there may be practices that are permitted by New South Wales research institutions, such as inhalation research, that would not be approved by other institutions. So it is very inconsistent because it is down to the discretion of that individual institution and the pressures that may be placed upon the members of that committee to approve or not approve that research.

To improve the system, greater accountability, greater transparency, and I think retrospective assessments of the research to see if it is meeting the claims that are made would definitely be an improvement. The legislation does not really enable bans of specific procedures because it is left at the discretion of individual institutions. That is a real weakness of the current legislation that could be addressed, actually having bans or restrictions on specific procedures. Currently there are some restrictions on the Draize test and the LD50 test, but I think that it is time to expand that list of restrictions or prohibited procedures.

The Hon. EMMA HURST: What should be on that list? What procedures do you believe should be prohibited?

RACHEL SMITH: The primary three that we listed on our submission would be forced inhalation research, particularly the nose-only exposure method used by Centennial and the University of Newcastle; forced to swim test; and antibody production using animals.

The Hon. EMMA HURST: This Committee will make recommendations to the Minister from this inquiry. What would you specifically like to see in those recommendations, particularly regarding animals used in experiments?

RACHEL SMITH: Specifically the main recommendation would be the prohibition of those particular procedures; they would be our first one, and increased transparency. We would like to see very clear reporting on

the number of animals that are used, which institutions are using them, what the results are, the funding. If that information is not available then I do not think that the public licence that was mentioned this morning can really be expected if people do not have that information upon which to make an informed opinion.

The Hon. EMMA HURST: Dr Elliott, we have talked a little bit about poisoning today, but there is an offence of poisoning an animal that is listed as a domestic animal. Is there any veterinary basis for excluding wild or even native animals from protection from poisoning?

ROSEMARY ELLIOTT: No, there is no veterinary basis at all. They will all experience the same suffering if they are poisoned by the substances, whether it be 1080 or whatever. Most of the poisoning is geared towards trying to get rid of feral animals. But feral animals are domestic animals who went wild years ago, or they may not be considered domesticated now but they have the same physiological make-up, the same response to pain, the same response to suffering. These poisons would create exactly the same impact on all animals.

What concerned me about that section was I do not think when we think about the prevention of cruelty to animals we should just be thinking about bad people who deliberately harm domestic animals. Most animal harm is actually legalised, and that includes our treatment of feral animals. We are shooting and poisoning and shooting and poisoning, and we never actually get on top of the issue and look at other alternatives, whether it be immunocontraception or fencing or whatever the other strategies are. I am quite concerned that this would only apply to domestic animals, as in companion animals or farm animals.

The Hon. EMMA HURST: It also applied only to intentional poisoning. I wanted to get your thoughts around the idea of reckless poisoning. If people are thoughtless or reckless in how they are laying poisons and then it accidentally kills domestic animals or other animals, should we only be focusing legally on people who have intentionally poisoned a domestic animal or should we be looking at the recklessness of the poison being put down?

ROSEMARY ELLIOTT: You are talking about people who are putting out rat poison, for instance?

The Hon. EMMA HURST: Yes. Say somebody puts rat poison near their fence line and the neighbour's cat eats it. They did not mean to poison the neighbour's cat, but they had not thought that maybe the neighbour's cat would be very close to that fence line, for example.

ROSEMARY ELLIOTT: Yes, and it comes into the responsible use of chemicals and responsible pet ownership et cetera. Some people could poison their own animals through leaving out baits. Often an animal is too far gone by the time they get to a veterinarian. I think that is quite innovative. I had not thought of it and I do agree with it. I think what you would need is a long period of education around the risks of having poisons around. I mean, poisons could be things like antifreeze and children can leave things out. You would have to have a really good education campaign about this.

The Hon. SCOTT BARRETT: On the poisoning stuff, last year we saw plagues of mice literally eating people's incomes, in children's bedrooms and kitchens and that sort of stuff. You mentioned community expectations before. In lieu of any alternative other than poison, do you think community expectation is that we do nothing in that scenario?

ROSEMARY ELLIOTT: No, and that is a very difficult scenario you raise. It is almost a natural disaster. Where people for the reasons of their children's health and their own health had to kill those animals, what I would always argue is that it be humane.

The CHAIR: In terms of our inquiry, how would you regulate for that? For example, which poisons get approved? Do certain types have to be licensed?

ROSEMARY ELLIOTT: I will take it on notice because I would like to look into all of the poisons available. I do not think poisoning is—you cannot shoot mice, obviously; they are too small. All I would say is that we need to make sure that if they do have to be killed in such an extreme situation like that and other methods of removing them or preventing them from getting in have failed, that it is a humane death. A humane death is an instant death. It is not taking a poison that causes you to bleed internally, which is essentially what Ratsak does.

The CHAIR: Dr van Ekert?

KATHERINE van EKERT: As Dr Elliott said, we will take that on notice. Just to supplement that, we are revising a big Act, the animal welfare Act. This calls for an innovative approach. I do not want us to be dragging in undesirable aspects of the past. We know that there are a lot of poisons on the market that currently we do not see good alternatives to. But we are a smart bunch. We are capable of doing some pretty amazing things. That is in reference to the current pandemic response. Let us find alternatives. As Dr Rosemary said, for some

species there are more preferable alternatives, like shooting. For mice, we agree with the RSPCA Australia's assessment that snap traps are appropriately humane where it is deemed appropriate to kill pest animals.

It is not going to happen overnight, but we would like to see an end to inhumane poisons like 1080 and any warfarin-based Ratsak-style bait, and anything that causes prolonged suffering. We already have on hand devices that should be used preferentially, but we would like to see this legislation push for research into alternatives. Where there is a will, there is a way. There just has not been a will. But I have the utmost faith that we can do that. We were able to create vaccines in record time to stop the pandemic.

As Dr Rosemary Elliott said, that mouse plague was unprecedented. Well, I guess we had the plague a while ago. I live in rural New South Wales and I suffered an overabundance of mice here too. It was not pleasant and I sympathise with anyone that was affected by that. I was right there with you. Let us know that that could happen again, and so let us stockpile mice traps—snap traps. Let us stockpile humane things so that we are not caught off guard. Let us set up a structure that says that alternatives like setting up those big pools for mice to drown in en masse are not acceptable and not appropriate and absolutely cannot happen. If that is the framework that we are operating in, we know that those are not options we can reach for and we are going to have to find more humane alternatives.

The Hon. EMMA HURST: I have a question for the Australian Veterinary Association. Your submission argued that the provision relating to dogs in hot cars should be modified to either reduce or remove the temperature requirement of 28 degrees. I want to get more understanding about why you would like to see that changed and also whether you believe that the provision should be limited to dogs or whether it should include other animals as well.

DIANE RYAN: The reason why we say that that would need to be changed—and I think I was reading the information provided by the RSPCA that looked at the range of temperatures that could be raised in the car when the environmental temperatures were actually changing—for five minutes at 28 degrees you can get a massive jump. If it gets up to 33 degrees, it is going to affect the animal's welfare. After looking at the research done by the RSPCA, the people who are looking into this bill should also need to look at similar research to say that that is much too high a level and much too high an environmental temperature and they, in fact, need to lessen it a lot more. You are probably looking at closer to 21 degrees or what not. When you are saying for five minutes, who is going to count five minutes? I mean, it is a nonsense thing. We need to have an environmental temperature that actually gives a greater leeway for protecting those animals inside the car. Did you ask another question or have I just raved on?

The Hon. EMMA HURST: No, that answer was really good. The other question was that the provision currently only specifies dogs. Do you think it should expand to other animals?

DIANE RYAN: Yes. I think it should be all animals. When you look at dogs, a dog is not just a dog. You have got dogs of different ages and different breeds. Brachycephalic breeds in particular are very adversely affected by temperature because they just cannot cool themselves because of the structure of their mask. So they would be highly susceptible to temperatures in cars. You need to actually look at the range of dogs, cats—they can be sensitive to temperature—and birds. Whatever you keep in the car that is an animal would need to be determined when you look at this legislation.

Ms ABIGAIL BOYD: I have one final question to you, Dr Elliott. In your submission you talk about rodeos and the desire to prohibit them. Can you explain to the Committee the cruelty that is involved there and why you would advocate for it to be prohibited?

ROSEMARY ELLIOTT: Yes, definitely. I was concerned that there was an exemption made for rodeos. Rodeos are a form of cruelty that would, ideally, be an example of why this bill has brought in psychological harm as part of animal cruelty—as part of the definition. It is physically dreadful. I will focus particularly on calf roping because these are young animals. Sometimes they have not been weaned long. Sometimes they are 100 kilograms. It is fully legal in New South Wales. They are released from a chute, they are chased by somebody on a horse, they are lassoed, they are dragged to the ground and then the rider gets off and ties their three legs together. There has been a lot of research, particularly on the—I mean, you only have to look at them to see that they are terrified.

Rodeos, in general, can expose animals to terrible injuries—often fatal injuries. I think only the year before last there was something down at Darling Harbour or somewhere, where a bull had a broken hip and had to be euthanised. The injuries are shocking, particularly for the young calves. They can end up with damage to their windpipe or broken ribs et cetera. The psychological damage, though, is prolonged. It is absolute terror. They have done some very good research. They have moved beyond looking at just elevated blood cortisol levels, which

could be for other reasons, to looking at the—Katherine spoke earlier about how we can tell an animal is suffering. We have got lots of validated measures now, like grimace scales et cetera.

There is a really good technique that they are using now in animal welfare science, which is not invasive, and it is called qualitative behavioural assessments. In a recent study—and I can send the link on notice—you have observers who are blind to the conditions of the animals and they are rating different aspects of their presentation—their affect, if you call it. They were reliably able to distinguish between calves who had been in a calf roping event and those who had not—expressions that indicate agitation. A big one is white eyes. They will roll their eyes and you can see 50 per cent of the white of their eye. We know that it causes psychological suffering. We know that it causes injury and potentially death. So why on earth is it legal? Why on earth would this be, along with many other examples, exempt from animal cruelty provisions?

The CHAIR: I will ask a couple of questions of Dr Ryan. Often vets might encounter what appears to be cruelty. Do you have a procedure that vets would follow to report that and for how you would manage that?

DIANE RYAN: Up to recently we possibly could not because of the confidentiality in our code of conduct. So the AVA actually approached the Veterinary Practitioners Board. It was a time when they were looking at exemptions to the code of conduct confidentiality to do with the Biosecurity Act. We said that we also need to give vets the ability to report animal cruelty and for that not to be contrary to the code of conduct. Those have been recent changes to the code of conduct to allow vets to do that. Because we also have—and I think it has also been mentioned—the link between domestic abuse and animal cruelty. So we have given vets the ability to report to authorised officers with the RSPCA if they suspect animal cruelty [disorder].

The CHAIR: A statement was made earlier that most animal cruelty is neglect. Would you agree with that? Is that something that needs additional measures to address?

DIANE RYAN: Yes. Neglect is really because of improper education. I have dealings with the Responsible Pet Ownership Reference Group. Part of that ambit—and I know that you have had Kristina Vesik from the Cat Protection Society of NSW—is looking at providing information to people on how to actually look after their animals, on how they provide care to their animals. Because I think that is deficient. Some people do not understand what animals actually need. They think they are doing the right thing, but they are not. They actually do need that education, which is why I said before that education needs to be a major component of this Act or associated [disorder].

The CHAIR: Do you encounter mental illness as an issue?

DIANE RYAN: There is a lot of anxiety in our present pet population. Animal behavioural issues, I think, have been increasing, especially during the pandemic. We have seen increase in aggression in very young animals, and it may be due to inefficient—or not being exposed to—socialisation at a young age. It could just be a fault during this pandemic or now that owners who have been constantly at home are now leaving to go to work, and so we are seeing anxiety. We are seeing a number of behavioural issues occurring in animals.

The CHAIR: How big is this problem? Is it widespread or is it confined?

DIANE RYAN: We have discussed it, and I think we are seeing more and more of it. I see a lot of online chat between veterinarians, and some of them are asking for animal behaviour assistance because of animals they have seen. So whether or not it is something that is occurring all the time or it is something that is a side effect of our pandemic, we are not certain. We do see animal behavioural issues in animals that are kept in confinement, especially more intensive breeding—and this is dogs and cats. That is where we do, and we have put in a submission to the inquiry on puppy farms based on that because we are concerned about the psychological status of these animals that are kept under those conditions and not given the ability to express their own natural behaviours.

The CHAIR: We are approaching the end of our available time for the session. Do you have anything that you feel we have missed or anything that you wish to add? Please do not summarise; it is just a brief opportunity to make a comment. Dr Elliott, I might start with you.

ROSEMARY ELLIOTT: Thank you, Chair. I have talked about the exemptions; I think I have tried to make that point. But I guess what I would like to add, which we probably did not write in our submission: Everybody is thrilled to hear about minimum care requirements. I am starting to think of this in a more negative light. I think the dictionary defines "minimal" as the least of the lowest amount. I think we should be aiming higher. I think we can be aiming for gold standards of animal welfare, not the basic. When I look at the current standards and guidelines and codes of practice, if we have more of the same, minimum will be minimal.

The CHAIR: Thank you. Dr Ryan?

DIANE RYAN: I agree with the statement just made about minimal requirements. I think that we need to actually have input. Again, this is where I push the education. I suppose they need to have a lower standard where they can say that we need action, but we need to aim for a higher standard of care for animals. I have actually stated—and I know it is stated in our submission—that the Australian Veterinary Association would be very keen to be involved in formulation of standards, or care standards, for all animals.

The CHAIR: Ms Smith?

RACHEL SMITH: I just had two very quick points to make. The first was in relation to discussion on psychological suffering. In terms of animals in research, that may be almost a by-product of life in a laboratory or it may be inducing a negative psychological state to study depression or anxiety or different psychological conditions. I am hoping that this legislation will not just make an exemption that that is acceptable when it is animals used in research, because, obviously, they have the same capacity to suffer. The second point was just in relation to a question that was raised earlier this morning about whether the department of agriculture is the best department to oversee animal research. If it does continue with the department of agriculture, there needs to be greater collaboration with the department of health and the Department of Education because it is not just a case of assessing the animal welfare; it is assessing the merit of the research and the educational value. So if it does remain within the current portfolio, then I think there needs to be greater collaboration to be able to evaluate research.

The CHAIR: Thank you very much. I sincerely thank all the witnesses for the expert evidence that you have been giving us today in answer to our questions. It has been incredibly helpful. With that, I will close the session. We will reconvene at 3.10 p.m.

(The witnesses withdrew.)

(Short adjournment)

Assistant Commissioner BRETT GREENTREE, Region Commander—Western Region, NSW Police Force, before the Committee via videoconference, sworn and examined

Mr JOHN BAGULEY, Registrar, Veterinary Practitioners Board of New South Wales, before the Committee via videoconference, affirmed and examined

Ms CLEM HARRIS, Director of Policy and Industry Insights, NSW Department of Primary Industries, affirmed and examined

Ms TARA BLACK, Deputy Director General, Strategy and Engagement, NSW Department of Primary Industries, affirmed and examined

Ms SUZANNE ROBINSON, Director of Animal Welfare, NSW Department of Primary Industries, affirmed and examined

Dr JULIET CORISH, Senior Manager, Policy and Registration, Greyhound Welfare & Integrity Commission, affirmed and examined

Mr MATTHEW TUTT, Director of Compliance, Policy and Legal Services, Greyhound Welfare & Integrity Commission, sworn and examined

The CHAIR: Thank you all for coming, New South Wales Government witnesses. We are really looking forward to this evidence and note that many of the previous witnesses have recognised the difficulty of these reforms and congratulated the Government for making that effort. So we thank the witnesses before us for doing that and for being here to help us. The Veterinary Practitioners Board of New South Wales is also here via videoconference. We have seven witnesses. I thought we might do this session a little differently. I will ask for opening statements, of course, and then every member will be given an opportunity to ask some questions. Then, reviewing which witnesses have had an opportunity to speak, we will move to different witnesses at that point, if that is okay? Is there an opening statement from the New South Wales Government?

TARA BLACK: Yes, thank you, Chair. DPI really appreciates the opportunity to provide the Committee with some further information about the draft bill and the process that we have followed so far in developing it. Our current animal welfare laws are 40 years old and they have been amended many times over that period. They have now become very complex and quite prescriptive. The aim of this reform project is to reduce the confusion and complexity in the existing framework, and to address the known gaps in the laws. That has been informed by current science and evolving community expectations. We started with a review of our legislation and looked at what other jurisdictions were doing, and then undertook consultation on an issues paper. From there, we developed a proposed framework for the new laws and undertook a further round of consultation on a discussion paper. The feedback on that discussion paper has informed the draft bill that is before the Committee.

We know that there is a range of views amongst stakeholders and the community about what good animal welfare means, so consultation has been a really important part of this process so far. We have received almost 6,000 submissions through the two rounds of public consultation that we have undertaken to date, and this inquiry is a further opportunity for us to seek feedback on the draft bill before we finalise it for introduction into Parliament. We know from the consultation processes that our animal welfare laws need to change. There are parts that need to be clarified and simplified, and there are some important gaps that need to be closed. The bill seeks to address the confusion and complexity around the core components of our animal welfare laws by updating the objects and definition of cruelty, introducing a minimum care requirement, and clarifying powers of entry. These changes are intended to clarify the existing requirements.

The bill also seeks to strengthen our existing laws and improve welfare outcomes by updating the definition of "animal" and "responsible person", implementing a new penalties framework, introducing new offences, increasing enforcement powers and improving oversight of the approved charitable organisations. The New South Wales Government is committed to maintaining high standards of animal welfare and to ensuring that the draft bill is fit for purpose for all people who care for and work with animals. We are open to feedback on the draft bill and we appreciate the opportunity to provide some further information on that today.

The CHAIR: Thank you very much. Mr Baguley, do you have an opening statement?

JOHN BAGULEY: No, thank you.

The CHAIR: That is fine.

The Hon. MICK VEITCH: Thank you all for your attendance. It has been an interesting couple of hearing days and no doubt you have been tuned in to what people have been raising. I will start out with the obvious one that has been raised in the majority of the submissions and I think we have heard it from just about

every witness before us—it is to do with the requirement that the draft regulations be presented at the same time as the bill to the House. The Committee's terms of reference have got us considering the draft regulations as part of the final report. What are the difficulties with presenting the draft regulations at the same time as the bill for the consideration of both Houses of the Parliament?

TARA BLACK: Thanks.

The Hon. MICK VEITCH: Sorry, are we directing our questions to you, Ms Black?

TARA BLACK: You can.

The Hon. MICK VEITCH: Let us do that.

The CHAIR: And you can redirect them. That will be very easy for us. Thank you.

TARA BLACK: We do recognise that there is a fair bit of interest in what will be in the draft regulation. The Act itself focuses on the high-level principles and expectations and offences, so it is intended to be a single point of reference for people to understand what is broadly expected of them. We do fully intend to undertake thorough, targeted and public consultation on the draft regulation and that will include a regulatory impact statement. In addition, as you have just mentioned, it is part of the terms of reference for this Committee as well. So there will be plenty of opportunity for people to see the draft regulation and provide feedback on it before it is finalised. There are some challenges with developing a draft regulation in advance of finalising the bill. Our intention had been to finalise the draft bill and have that settled and through the Parliament before we started consultation on the draft regulation, so that there was some certainty about what the principles in the Act said before we go into the next phase of the project.

We are also very conscious of the risk of stakeholder fatigue and confusion. We do know that already stakeholders are a little bit confused about the various private members' bills and inquiries that are active at the moment. So one of the challenges of consulting now on a draft regulation, before the Act is through, is that risk of stakeholders becoming confused about "Where does this fit into the scheme of things?" Probably the other point to make on this is just that the Act itself will not commence until the regulation is finalised. I think there was a comment from one of the other witnesses about asking for certainty about that. That is definitely our intention, that we would have the Act passed by the Parliament and then we would finalise the regulation through that consultation process I outlined, and only once that regulation was finalised and made would the new framework commence.

The Hon. MICK VEITCH: Can I just clarify, are you looking at one large draft regulation or are you looking at a number of draft regulations to apply to certain aspects of the bill?

TARA BLACK: I think, at this stage, the intention is a single regulation. The types of things that will be in the regulation is probably important to clarify as well. The idea is that some of those more administrative matters that we might want some flexibility with so that we can adapt to evolving science, new process improvements, changing community expectations, we can do that with a little more agility. The regulation will include things like the licensing application and assessment process, conditions, fees, membership of the advisory committees and then some pretty specific details around the circumstances in which certain restricted procedures can be performed, what the mandatory standards are and who is required to comply with them, and things like the content that needs to be in the reports that we will be requiring from the approved charitable organisations. It is a level of detail that is in modern legislation. The modern approach is to include that type of detail in a regulation rather than in the Act, so that is the approach we are intending to follow.

The Hon. MICK VEITCH: Okay. So, clearly, there is still a long journey for us to follow to get to that point where the regulations will be ready to turn on the Act. Once that is all processed, you are still looking at a fair way down the track.

TARA BLACK: I think it depends to a large degree on what the Committee's interim and final reports say and how much further consultation we might need to do to test what the final package looks like. We have—and I think this was in the evidence from budget estimates last week—started work on the regulation, but we cannot finalise it without doing targeted consultation in the first instance to check that there are not any unintended consequences from what we are proposing to put in there, and that is in advance of doing a full consultation process and regulatory impact statement process. So, yes, there is a fair bit involved in ensuring that we get it right, but we are not starting from square one. We are working on that in the background as the Committee process continues.

The Hon. MICK VEITCH: I just have one other thing before I can hand over. I just want to put out the bushfire around dog, cat and agricultural shows being required to have a licence to exhibit. It is pretty clear from the evidence given to the Committee that people do not want that to happen. My reading of the bill is that it

is actually silent on that; that it is not listed. I think that may well be fertile ground for that to have developed. That is not the intention. Am I correct in saying that?

TARA BLACK: I might let Suzanne speak to the detail on that, but what we are proposing to do with exhibited animals requirements is broadly just roll over the existing framework and requirements into the new bill and regulations.

SUZANNE ROBINSON: That is correct. That would be the intent. Currently some of those exclusions are in the exhibited regulation, so the intent is at this stage to carry those over.

The Hon. MICK VEITCH: So ag shows, dogs and cats shows are not—

The CHAIR: I might just ask you to pull your microphone forward a bit, if that is okay. Thank you.

SUZANNE ROBINSON: That is correct.

The Hon. MICK VEITCH: Okay, good. So we can all head back to our country shows now and know that we are not going to be beaten up in the chook shed. Thanks.

SUZANNE ROBINSON: No problem.

The Hon. EMMA HURST: Thanks, Chair. I presume proposed sections 38 and 39 in regards to animal cruelty material were actually drafted before a similar offence was actually passed into the Crimes Act in November. Is the intention to retain these clauses in the bill or remove them, given the changes that have just happened in the Crimes Act?

CLEM HARRIS: To retain it. We are obviously aware of the Crimes Act amendment that went through late last year and our view is that this provision, at section 39, complements what will be in the Crimes Act. I suppose the difference between the Crimes Act offence, which includes that sexual perverted gratification element, and this proposed offence is that there is no mental element in our proposed offence. That would mean, for example, if material did not meet that test—of that sadistic sexual perverted interest threshold—then it possibly would not trigger that Crimes Act offence, but it could still trigger this offence. An example of a video that might fall into that category would be something like a video of dogfighting. The way that this provision is drafted, it is only material that would be considered an animal cruelty offence and then it is obviously footage, or, I believe footage of that offence, with the idea being to deter—and, I guess, making and spreading—those sorts of videos.

The Hon. EMMA HURST: Something that has obviously come up at this inquiry is the concern around it having a real muting effect for the authorities to be able to actually be able to prosecute. One example that was brought to me was that somebody intentionally ran over some emus and somebody else filmed it, then they shared it on social media, and then other people on social media shared it. Then, obviously, it came to the authorities' attention. But that means that the person on social media that shared it, even if they were horrified by it, is open to being prosecuted. I am wondering why we would consider that a crime—just sharing videos and information. The concern that has come to us is that it is so broad that anybody sharing these videos—and it will have a massive gagging effect, I suppose—

CLEM HARRIS: Yes, sure. That is obviously not the intent of what we are going for with this provision. We have specific exemptions in there to hopefully mitigate unintended consequences like the one you have just described. For example, it would not apply if capturing that video was necessary in the assistance of administering or enforcing the laws. That is intended to capture where somebody captures a video of animal cruelty.

The Hon. EMMA HURST: But I am talking about them sharing it, which is not an exemption. Capturing a video for law enforcement was an exemption, but if it is just someone who shared it on social media—say I saw it and shared it and said, "Has anyone seen this?"—I am not exempt under the current Act.

CLEM HARRIS: Possibly not, no, as it is currently drafted.

The Hon. EMMA HURST: It is very broad.

CLEM HARRIS: Yes. I would say, in circumstances like that, I think the preference would always be, of course, as you would know, if you have footage of animal cruelty, obviously to go to the RSPCA or at least the Animal Welfare League as the first pass rather than social media, but I take your point.

The Hon. EMMA HURST: Will that be reviewed, given the criticisms across the board that we have received in this inquiry?

CLEM HARRIS: Will this provision, do you mean—the exemptions?

The Hon. EMMA HURST: Not the exemptions, the entire portion.

CLEM HARRIS: Yes.

The Hon. EMMA HURST: I have not had anybody supporting it.

CLEM HARRIS: Yes, of course. As Tara said, we are using this process to get feedback on the draft bill and we are happy to take any feedback on board.

The Hon. EMMA HURST: Thank you. Section 530 of the Crimes Act criminalises the intentional torturing and killing of an animal with the intention of causing severe pain, but there are going to be exemptions. You are probably aware of a case recently, *Brighton v Will*, in which the judge was actually very critical of the fact that there are exemptions in the Crimes Act for this provision, given that the bar is the intention of causing severe pain. Was that court case taken into account where there was a proposal to retain exemptions for animal cruelty when there was an intention to cause severe pain?

CLEM HARRIS: Yes. In the draft bill at the back there is a consequential amendment to the Crimes Act, which removes the exemptions from applying to that serious cruelty offence that has that intent element. So there will be no exemptions available under the Crimes Act.

The Hon. EMMA HURST: So there will not be any exemptions in the Crimes Act?

CLEM HARRIS: Not for the intentional crimes. They will still be available for the reckless offence, but not for intent of serious animal cruelty.

The Hon. EMMA HURST: We have had a lot of concerns raised in regards to why birds have been excluded from the proposed section 29, injuries to animals struck by vehicles, and there does not seem to be any rational basis for excluding specifically birds. I know that that is possibly also historical because it has been in the Act for quite some time rather than something that has been drafted in now, but noting the feedback we have had, is that something that will be considered, to include birds?

TARA BLACK: Yes, that is right. The provision around birds that you are talking about is a carryover from existing POCTAA requirements. That has actually been something that has been really interesting through this project: A lot of the feedback that we are getting is actually on provisions that are in existing legislation that maybe people just were not aware of. So, today I think was the first time that we have heard feedback about that specific issue. I am definitely happy to go away and have a look at that and provide some further information back to the Committee about what the historical reasons might have been and whether we believe that needs to change.

The Hon. EMMA HURST: Thank you. The bill creates a division between the exhibited animals in the research licensing provisions that can be enforced only by the Department of Primary Industries and other animal cruelty provisions that can be enforced by the three authorities. I just want to check that will work in practice. If someone runs a petting zoo and commits an act of aggravated cruelty against an animal, would the RSPCA still be able to enter and charge that person, or would it be left to the DPI because it is an exhibited animal facility? Has that made that a really solid distinction going forward?

TARA BLACK: Suze can probably provide a bit more detail on this, but I would just say again, that is the existing arrangement. DPI administers and enforces the Animal Research Act and the Exhibited Animals Protection Act.

The Hon. EMMA HURST: I understand that the RSPCA can still go in and act at the moment.

SUZANNE ROBINSON: Yes, that has carried over. The intent will be that if you have an exhibited licence, you would fall under the exhibited Act, but POCTAA could also apply. There is no exemption from POCTAA for exhibitors, as is currently the case.

Ms ABIGAIL BOYD: Firstly, in your opening statement, Ms Black, you talked about the consultation process and the number of submissions that were received. It sounds like that consultation was quite extensive. There appears to be two major issues that were raised in that consultation that have not made their way into the bill, and that is animal sentience being explicitly recognised and also the independent office for animal welfare or something of that nature. Why were neither of those issues taken up in the bill?

TARA BLACK: On sentience, we absolutely agree animals are sentient. That is why we have animal welfare laws in the first place. Since 1979 in New South Wales we have had laws that acknowledge the fact that animals are sentient. We do have explicit reference in the bill recognising sentience through cruelty provisions around pain, distress, physical and psychological suffering. There is no debate about the fact that animals are sentient. I suppose the question of whether that is necessary to include in the objects, we have deliberately tried through this process to streamline and make the laws really clear. I think the evidence even last week from one of the witnesses that was proposing this acknowledged that it was unlikely to have any actual practical impact if we included that in the objects. It is not that we do not recognise that animals are sentient. It is more that we did not

believe it was necessary, and there was potential risk to cause confusion if we have language in there that does not really relate to anything else that is in the bill.

Ms ABIGAIL BOYD: Before you move on to the independent office for animal welfare point, today we heard from the Sentient Animal Law Foundation, who were arguing that actually having sentience explicitly acknowledged does have a practical impact in terms of guiding interpretation and that it produces a more positive duty of care, more in line with the five domains and the five freedoms. Having listened to that evidence, will you review or reconsider the stance on sentience?

TARA BLACK: We are happy to take on board the Committee's views and, I suppose, deliberations on that matter. Like all things animal welfare, there are a range of views about it, so we are definitely happy to consider it. As I said, we have tried to craft a set of objects and definitions that we believe are modern and easy to understand, but we are happy to take on board that feedback.

Ms ABIGAIL BOYD: We have academics and others who are arguing that actually including animal sentience recognition in legislation, in line with some of the more progressive other jurisdictions, is a positive thing. Even if you were to believe it was unnecessary or did not make any particular impact, I guess there is no harm from your perspective of including it then? Again, why not do what people are asking for?

TARA BLACK: No, that is right. Our view is that it is not necessary, not that it would be harmful.

Ms ABIGAIL BOYD: To which I would say put it in.

The CHAIR: This is our big chance. Did you want to ask about the office?

Ms ABIGAIL BOYD: Yes. The independent office for animal welfare was the other one that kept coming up. What were the views around that, and why was that not included?

TARA BLACK: I think we have a pretty strong framework already in New South Wales that includes DPI, GWIC, RSPCA, Animal Welfare League and the police. That is a pretty unique mix of expertise, experience and enforcement and animal care infrastructure. I think RSPCA NSW's evidence earlier today spoke to the fact that we have not actually seen a proposal put to what that would look like. So it is a bit difficult to comment exactly on how an independent animal welfare office would look and how it would function. But we believe that we have a good framework here that works well, and it does include those unique skill sets, experience and infrastructure that the various enforcement agencies have.

Ms ABIGAIL BOYD: The people who were consulted though disagreed on the basis of that. I guess this is your opportunity to frame that office of animal welfare in line with what people thought was missing.

TARA BLACK: Sure.

Ms ABIGAIL BOYD: And you have missed that opportunity.

TARA BLACK: I would not agree that that was the overwhelming feedback in the submissions to the discussion paper or even the issues paper. It has certainly come up—

Ms ABIGAIL BOYD: I did not say it was the overwhelming issue. I said it was something that was mentioned a lot by a lot of people and we have heard a lot about it in the last two days of hearings as well.

TARA BLACK: Yes, so—

The CHAIR: Do you mind if I ask something specific?

Ms ABIGAIL BOYD: Please.

The CHAIR: The allegation was made that there is a conflict of interest in having DPI and that is why there should be a separate office. I just wondered if you could respond to that.

TARA BLACK: I do not agree with that comment. DPI has significant expertise in animal use industries. We also have significant animal welfare expertise. So those two functions work really well in bringing in together, I suppose, our administration of the laws. I do not agree that there is a conflict of interest at all.

The CHAIR: Thank you.

Ms ABIGAIL BOYD: I will just pick up on that point then. I think it is less of an explicit conflict of interest than it is a conflict of interests maybe. But if you are looking at the idea of animal welfare from, as you put it, an animal use perspective, clearly that is more designed to be around the quality of a product than it is when we are looking at the community's expectations on what animal welfare should look like, which is far more in line with the five domains. It is in that context that DPI is seen as not being the appropriate organisation to administer

both, whereas an independent office for animal welfare would ensure that the community's attitudes were actually considered.

TARA BLACK: Our view is that those functions are complementary rather than conflicting.

Ms ABIGAIL BOYD: We will have to agree to disagree.

The Hon. MARK BANASIAK: I might just go to two completely separate items. The first one is game parks. This is an existing provision under POCTAA. Given the definition of "game park", the way it is defined means any person that gives a farmer a box of a couple of kilos of prawns for access to property is essentially making that farmer commit an offence so that they can get access to the property to shoot feral goats, wild pigs or deer. Given that there are existing exemptions for hunting, why do we have game parks when clearly it is an unenforceable part of the law because no farmer is being pinged for essentially letting people onto their property? It actually delivers no animal welfare outcomes because there are already guiding principles about how animals can be hunted according to unnecessary harm or unreasonable harm. Why does that still exist if it is an unenforceable part of the law and delivers no animal welfare outcomes?

SUZANNE ROBINSON: Our understanding with the intent of that—it has been carried over from the existing laws—is that it was designed for what is sometimes termed "canned hunting". Animals are contained in an area that they cannot escape from and people are paying to come in and hunt those animals, so it ensures they have a higher ability to take or kill an animal. That is the intent of that when it is talking about game parks, not normal hunting on a farmer's property. That was the intent in carrying it over. Noting that there is some confusion—yes, we have heard that as well—we will look at how we might look at that to clarify that.

The Hon. MARK BANASIAK: "Confined" is a fairly vague and broad term. If a farmer has a fence around a property, you would argue that some animals would be confined but we know a deer can leap six-foot fences without even breaking a sweat. But thank you for going back and looking at that.

The other issue that has come up—and it came up probably 12 to 18 months ago—is this complexity about what is considered a commercial dog breeder or cat breeder. The RSPCA was given a sum of money to crack down on puppy farming but all it seemed to be doing was targeting hobby breeders. They are the reports we were getting. We tried to move amendments 12 to 18 months ago to try to provide some clarity as to what a commercial breeder is. What is the difference from someone who does it as a hobby, does not make a huge amount of money and it is not their primary purpose to make money from breeding dogs? They just love the dogs and they want to keep the breed going in this country.

We were told by the Government, "Now is not the right time. Let's look at it when we do the animal welfare reform." Now we have it here, it does not seem to have appeared or been clarified. There were concerns from Animal Care Australia that they are wishing and hoping it might be clarified in regulations but they know there is an existing code of practice that is quite vague. Where are we at with that? Are we going to get some clarification about the difference between someone who is doing it primarily for profit and someone who is a proper commercial breeder?

CLEM HARRIS: The approach we have taken in the draft bill is to not define "commercial". It just takes its common meaning, which is consistent with the approach in other New South Wales legislation, such as the Protection of the Environment Operations Act and the EP&A Act. We are aware of the concerns that you mentioned. We have had meetings with Animal Care Australia about this issue. I think the challenge with trying to develop a narrower definition of what is "commercial" is a risk of unintended consequences. I know the amendment that you are referring to from last year on the "animal trade" definition, and there was some concern at the time that that might unintentionally exclude activities that may be commercial plus challenges around giving a definition that an inspector or an enforcement agency can confirm on the ground before taking a decision to act.

I think the crux of the issue from the conversations we have had with Animal Care Australia, and probably conversations that you have been having as well, was about how it links to the powers of entry and whether the enforcement agencies can enter a residential premises if it is being used for a commercial purpose. I would like to take the opportunity to clarify that our intent in drafting the bill and the instructions that we gave to the Parliamentary Counsel on this issue is that the residential protections will override. It is a narrower set of powers available on a residential premises, not the broader commercial powers in that setting.

The Hon. MARK BANASIAK: I appreciate that might be your intent, but quite often intent gets lost between drafting and enforcement. What will we see in regulations or the codes of practice that clarify and cement that intent?

CLEM HARRIS: On the term "commercial" and whether it has additional guidance in the regulations, that is probably something that we would consider as feedback to come out of this process as well as consultation

on the draft regulations. At the moment we do not have a specific working definition or subclauses that we would be putting in there to further constrain the definition of commercial.

The Hon. SCOTT BARRETT: Can I just stay on the powers of authorised office for a second, Ms Black? I know you touched on it in your opening address and we got pretty close to it then. This might be for Assistant Commissioner Greentree as well. There has been a little bit of confusion about a sudden increase in powers for authorised officers, particularly in reference to accessing homes, and someone suggested they were being afforded less rights than murderers and criminals. Can we just touch on that again to clarify it a bit and also clarify the language used in the bill, which I think is consistent with other language in other legislation, such as the Biosecurity Act as far as access to residences and premises?

TARA BLACK: In terms of the powers of entry, you are right. We are just seeking to clarify existing powers that are in POCTAA. Currently those powers are a bit confusing; they are in different parts of the Act. This is trying to bring them together for the first time and make it really clear. The only additional power that we are proposing to give to the enforcement agencies is to allow them to provide pain relief in certain situations. Otherwise it is a carryover from existing powers—no changes. But police may want to add something to that.

BRETT GREENTREE: All I will add to that is that depending on the situation, we have a number of other powers, as you know, which we would use depending on the allegations, whether it is under the Search Warrants Act or declaring a crime scene depending on what it is. This just forms one of many powers for us as an enforcement agency to use depending on the situation.

The Hon. SCOTT BARRETT: Does the language in this legislation reflect other similar legislation?

CLEM HARRIS: Yes, it does. As Tara said, the old approach was a bit convoluted and you had to compare a couple of separate sections of POCTAA to figure out what the powers were. This is an approach that is consistent with other modern legislation, such as the Biosecurity Act.

The Hon. SCOTT BARRETT: Touching on the poison issue again, which I have done a couple of times, it has been suggested that the use of poisons should be a restricted action in this Act. Can we touch on why it is not a restricted act and what the ramifications would be if it was?

SUZANNE ROBINSON: The current poisoning of domestic animals has been carried across from the existing POCTAA, so the intent—

The Hon. SCOTT BARRETT: Sorry, specifically with feral animals.

SUZANNE ROBINSON: For feral animals, currently it is also the case that pest control is not covered by that "poisoning" definition because it is specifically designed for people essentially purposefully trying to poison domestic animals, for instance, if someone had a barking dog next door and you have situations like that where people are trying to take the situation into their own hands. In terms of lethal baiting, the intent is to continue to allow poisoning as a way of control of feral animals, mostly to pick up on the fact that they have a big impact on livestock and wildlife as well, so it is important to be able to manage those to mitigate those risks.

In terms of 1080 and other lethal baits, the APVMA registers those and their usage. You need to follow them in line with labelling and with permits. The EPA is responsible for regulating that, including investigating any situations where there are off-target impacts. I guess it is really important at this stage, until there is more effective means of control of those pest animals, that we continue to be able to have access to lethal baiting as an option along with a range of other options, particularly when you are looking at situations where these animals can be spread across large areas and difficult to access areas as well. Things like 1080 baiting are important in those situations.

The CHAIR: An item in our terms of reference relates to reducing and removing unnecessary regulation. We actually have not had a lot of evidence on that particular matter, and I just wondered if you could let us know what has been done in the draft that tries to achieve that.

TARA BLACK: Clem might be able to give a little bit of detail on this. I will say that absolutely our intent with this reform project is to reduce the complexity, reduce the confusion and have really clear provisions in there that are easy to understand and enforce. In terms of specific things that might have been taken out or—

The CHAIR: Or reduced due to duplication, I presume?

CLEM HARRIS: Yes. I think it is more along the lines of reduced duplication and streamlining. For example, the proposed cruelty provision in the draft bill consolidates maybe about eight separate offences that are currently under POCTAA into a single cruelty offence. That is sort of the approach, as we were saying before, with the powers currently spread out all over the place but bringing them together with the intent that it is more streamlined and it is easier for people to understand their obligations and easier to enforce as well.

The CHAIR: In relation to compliance activities, I do understand it is about gathering things from different places and pulling them into one Act but is there an actual strategy behind how compliance should operate with one Act? I am talking about there being different agencies with different roles. Has that actually got a strategy that underpins it all? I do not know if I should ask the police that.

CLEM HARRIS: Assistant Commissioner Greentree might like to add to that, but if your question is going to be about intending on changing the enforcement arrangements, my answer would be no. Under the current arrangements, POCTAA is obviously enforced by the enforcement agencies that Tara mentioned before and then DPI does animal research and exhibited animals, and those are carried over in the same status quo arrangement into the new draft bill.

The CHAIR: So the status quo is pretty much replicated in the draft bill?

CLEM HARRIS: Yes, that is correct.

TARA BLACK: If I could just add to that, the police, the Animal Welfare League and the RSPCA all work really well together. They are always improving their information sharing. It would probably be best for the police to speak to this point, but that is an arrangement that works well from DPI's perspective.

The CHAIR: Taking that as an example, would it be fair to say that that arrangement is not 40 years old, but it has been evolving over 40 years?

TARA BLACK: Yes, that is right.

The CHAIR: It is not broken, so it is carried forward into the new bill.

TARA BLACK: Yes. Both DPI and the enforcement agencies are always looking at ways of improving the way we all work together. We talk very often and they have been a critical part of the targeted consultation that we have undertaken up until this point to ensure that we are developing laws that are actually enforceable and that there are no unintended consequences in the draft bill. I will just say on that point that this is a first draft of the bill, so this is a slightly unusual process in that we have provided a first draft of the bill to the Committee and we did not have the opportunity to do the normal targeted consultation that we would normally do before we publish a draft bill for public consultation.

We are aware that there has been some evidence around possible unintended consequences or issues that we might need to have another look at and refine those proposals. That is certainly what our intention is here. This process has been a good way to elicit feedback from stakeholders and we will definitely be looking at the feedback that has been provided on the draft bill and, in particular, ensuring that any unintended consequences that have been identified are addressed in the next version of the bill.

The CHAIR: Thank you for this innovative approach that you have taken because I think the Committee appreciates being able to play a role in this. It might perhaps become clearer to members as we are working our way through this. It is not a bill in Parliament to be attacked in a way that you might normally do it, but we have the privilege of being involved at a much earlier stage. Thank you for that.

The Hon. MICK VEITCH: Over the last couple of days one of the issues that has been raised relates to the objects of the Act. The objects as I see it are to do with the welfare of animals and to prevent cruelty to animals. People talk about education being a critical element for better welfare outcomes for animals in New South Wales. Section 4 talks about how objects are to be achieved. For section 3 and section 4, is there a view that we should include something around education and how would you envisage that happening?

TARA BLACK: I definitely agree that education and also training are important parts of ensuring the continuous improvement in animal welfare, as well as compliance with the laws. Yes, I definitely agree that education is important. It would be unusual to prescribe anything about education in legislation. That is definitely part of DPI's role and the enforcement agencies' roles and a number of other players in the animal welfare space. It is very important and something that we will continue to do, particularly off the back of hopefully soon having new animal welfare laws. We fully intend to have a community education and awareness campaign to make sure that people understand what the requirements are and why and how they can comply with those requirements. It is certainly important, but I am not sure that we would support having that prescribed. I am not sure what that would look like if it was inserted in the bill.

The Hon. MICK VEITCH: Ms Black, do you know of any other jurisdiction that would have education and training in the objects?

TARA BLACK: Not that I am aware of.

CLEM HARRIS: You are testing my memory. I will have to take that on notice.

The Hon. MICK VEITCH: That is fine. I like to test people's memories.

The CHAIR: Just a quick question of clarification. The draft bill that we are looking at is 2021. There is one that has been posted on your website that is 2022. I want to confirm that is the same version?

CLEM HARRIS: Yes, it is the same one. One was a product that was provided to the Committee at the very end of last year and then Parliamentary Counsel updated the year for publishing this year. It is the same bill.

The CHAIR: Would it be helpful if we think of it as the 2022 bill? That is your advice?

CLEM HARRIS: Yes.

The Hon. MARK BANASIAK: I want to pick up on education. There is an Act that prescribes education. The Road Transport Act actually prescribes education to local councils that are doing the maintenance of roads. That might potentially be a way that you could prescribe that regular updates or regular education needs to happen with the RSPCA, the Animal Welfare League or even the breeding associations or peak bodies. That might be a way of codifying that there needs to be regular education. That is not a question but more of a comment to assist, if that might work.

TARA BLACK: It is probably also worth mentioning that the bill, the regs and the standards are not silent on education and training. That is a really important part of the requirements and that is codified for certain people who work with animals in different contexts. It is not entirely silent. It is difficult, though, at a higher level. I am happy to have a look at what transport has done.

The Hon. EMMA HURST: I have a follow-up question for Ms Harris in regards to proposed section 38 and section 39 with the animal cruelty material. I am trying to understand, if you are aware that it will have that a real muting effect and stop cases coming to the attention of the authorities, what is the legal benefit if it closes an avenue of animal cruelty becoming publicly available and aware?

CLEM HARRIS: I would say that obviously it is not the intent to close that avenue.

The Hon. EMMA HURST: It will have that effect. That is the unintended consequence of it.

CLEM HARRIS: I understand. As Tara said, we did not get the chance to do targeted consultation on this and explore any of the unintended consequences. If that issue was addressed, or if that was provided for somehow in an exemption, I still think there is value in having the provision. As I said, it would hopefully act as a deterrent for people—separate to the example that you gave—who do film examples of animal cruelty. We have heard some strange examples from the RSPCA of people swallowing goldfish and spreading videos as an attempt to incite other people to do it. Again, if the suspected offence did not meet that mental element that was in the Crimes Act defence, then the intent is that there is an alternative verdict provision and that this offence could be relied upon.

The Hon. EMMA HURST: This is me hypothesising rather than having the evidence, but the act of filming it may not necessarily be the legal issue. That person may swallow the goldfish anyway if they are at a party and they are drunk. The fact that they filmed it and that the RSPCA now has this footage means that they got caught. If we are using that as an example to say that we want to stop them from making those videos, is filming themselves committing acts of animal cruelty the problem? If people then get the word out, "Do what you are going to do at your party but do not film it," that will again have that muting effect. I am just wondering if the act of cruelty is the issue or the fact that it was filmed in and of itself? I am just trying to understand the reasoning behind the provision.

CLEM HARRIS: Obviously, as I think you are pointing out, the cruelty offence is a problem. But if people are making videos of themselves doing such acts of cruelty and they go on TikTok, that could inspire other people to pick up the same TikTok challenge or something like that, so that is definitely something that we want to deter as well as, obviously, the initial acts of cruelty.

Ms ABIGAIL BOYD: Clearly, the intention is important.

TARA BLACK: That is right. I think we understand the line of your questioning. We are happy to have a look at that and see if there are some amendments that we might need to make to clear that up.

The Hon. EMMA HURST: Thank you. My other question was just about the further draft of this bill. We have been talking about how much work this is as a Committee as well. I think, Ms Black, you mentioned that you are going to go away and create a further draft. Is that also going to consider something that was brought up a lot by a lot of different groups? There was the concern about the fact that they had not seen the regulations, but there was also certain groups that were saying that, even if they saw the regulations, they still have those concerns because regulations can so easily change. That was across the board as well. There were animal

protection groups but also the NSW Farmers federation and other groups that were talking about the uncertainty of moving a lot of the legislation to regulations and that, even into the future, even if they have seen the regulations and people are happy with them, in the future they could change very easily. So I am just wondering how that will be addressed and whether the further draft of this legislation will include some of that feedback and maybe add some of the legislation back in, where it used to be.

TARA BLACK: I suppose the only answer I can give to that at this point is that we welcome the Committee's feedback on that and consider your advice on that matter. Obviously, we have been working on this project for a few years now. So we are very keen to see it through to fruition and to make sure that stakeholders understand it and are comfortable with it and that we have addressed any unintended consequences. So I suppose it depends on—we will have to consider the feedback that has come through this process and the submissions that have been made, to figure out what further amendments might be needed and then what further consultation on those amendments might be needed.

One of the challenges here is that some stakeholders have suggested that we change things to go in one direction and we need to test that with other stakeholders as well. I suppose it depends on how many changes are needed. That will drive how much time is needed and how these things line up. As I said, we are very committed to seeing this through. It has been a few years in the making. We can see the finish line, I suppose. But it is important to get it right and to make sure that stakeholder input and public consultation is taken on board before we finalise this project.

The CHAIR: Can I just on that come back to this issue of the name of the bill again. In our terms of reference we are reviewing the proposed exposure draft Animal Welfare Bill 2021. It is going to be confusing that your website now has changed it to "2022". Could I also ask you to consider that, when you do update it, it will be 2022. I do not know what you will call it. You will end up with two 2022 bills. Maybe it would be easier not to update the name and just stick with where we were. If you could think about that, anyway. You do not have to answer that now.

TARA BLACK: That makes sense. We might just have to check with Parliamentary Counsel's Office, what their advice is, but I think that is a good suggestion.

Ms ABIGAIL BOYD: Can I just go to a couple of other issues that were raised in relation to overlaps or duplications or lack of—no. I am not going to try and put these two issues together; I am doing it one at a time. The first one is the GWIC code and potential duplication with some of the provisions in the new bill. There were some concerns expressed that that was either unnecessary or confusing or could actually have a different meaning in the context of the bill than it does in the code. Can I ask GWIC what your views are in relation to how they interact and whether it is a problem, I guess.

MATTHEW TUTT: GWIC as the regulator for the greyhound race industry does so through a number of different instruments, whether it be the greyhound racing rules, the Greyhound Racing Act or the code. It is the case that the participants whom we regulate are aware of our rules. They are aware of our code. We do not consider there any issues with the duplication. It has been the case that, with our rules, with our regulations, with our code, we have gone through a fairly rigorous consultation phase with our participants. So we see our legislative instruments or policies as complementary to the current suite of other parts of legislation.

Ms ABIGAIL BOYD: Thank you. That is really helpful. The second thing was in relation to the Animal Research Act and the witnesses we had this morning who were saying that they would prefer and it would be much simpler for them if they just had the Animal Research Act as a standalone and, further, that the incorporation of provisions from the ARA into this bill were not comprehensive or perhaps left some things behind. What is your response to that?

TARA BLACK: I think we might have mentioned that with both exhibited animals and animal research broadly, our plan is to roll over the existing requirements into the new laws. We appreciate that that also means that we are moving some information from the Act into the regulation. As I said, that will be things like licensing conditions and fees and those more administrative matters. Our intention there was to just make it a bit more flexible so that those types of administrative provisions can be changed as needed. In terms of the merging of three Acts into one, I am not sure that I heard any evidence this morning that was specifically that that would cause confusion or diminish any of the existing requirements, as long as they were rolled over.

Ms ABIGAIL BOYD: I think there were two concerns. One was that it had not necessarily been all brought over. But, as you say, maybe some of it is now going to be in regulations.

TARA BLACK: That is right.

Ms ABIGAIL BOYD: The second point that at least one of the witnesses made was it is good to have a single point where you can go to find everything you need to know. In terms of this whole legislative project being about simplifying and making it easier for people to understand the legislation, something that is quite standalone in animal research, would you reconsider perhaps leaving the Animal Research Act as it is?

TARA BLACK: Yes. I think it is interesting too that actually our intention was to have it all in one place and the evidence this morning was that actually having it in two separate places does make it easier and, I suppose, clearer to understand. Again, probably a point to—we are happy to take on board the Committee's views and feedback about that. Obviously, we heard that evidence this morning as well. That is something that we can have another look at. But our intention in combining it into one bill was to streamline and modernise and make the requirements consistent where they can be. But we are happy to take on board that feedback and have another look at that as well.

The CHAIR: Just on that, one point that was made was that having it in one bill means that there need to then be a series of exemptions for general clauses. Would those items need to be exempted anyway if it was a standalone bill? Or would you just exempt accredited research facilities?

TARA BLACK: Yes. That is right. Suzanne might be able to expand on this, but there is currently an exemption under the Animal Research Act from POCTAA. That kind of arrangement would continue.

The CHAIR: That would be the way of avoiding having to go through each provision, doing an exemption.

SUZANNE ROBINSON: Yes. It was essentially carrying over what is existing provisions in the current legislation in terms of the exemptions, particularly between animal research and the Prevention of Cruelty to Animals Act.

The CHAIR: Coming back to streamlining, reducing and removing, the suggestion from them was this would actually have the opposite effect and it would make things more difficult. But we will, obviously, be looking at how we can give that feedback. I just wondered, from your perspective, if it made things any easier, if there was any benefit.

TARA BLACK: I am not sure what the enforcement agencies' views on this were. They are, obviously, an important stakeholder. Having it all in one place, I think you could argue, makes it easier for them—and to have a consistent set of powers. But I am not sure if police would like to comment.

The CHAIR: But I do not think the RSPCA officer breaking into the puppy farm is also tomorrow going to be going into Sydney University medical research. Compliance activities, surely, are not being done by the same people.

SUZANNE ROBINSON: They are not. But I think also the aspect of it is around getting a consistency of approach because the three different Acts have different powers and different compliance. For instance, I think in the Animal Research Act at the moment they do not have penalty infringement notices there, so as to get consistency of approach around the powers and the compliance tools available to compliance officers so that they are consistent across animal welfare, because at the moment they are not.

The CHAIR: We have had evidence from people who object to certain practices in research and would like to see those practices eliminated, but we actually have not had evidence of accredited programs that are being oversights by ethics committees committing any offences. I wondered is that your experience too—that there is actually quite good compliance—or are you aware that the use of animals in accredited research programs—is there an issue with them breaching and committing offences?

SUZANNE ROBINSON: Is my understanding that there is not. The department does the compliance and enforcement, including proactive audits.

The CHAIR: So I then have to ask are we solving a problem that does not exist?

SUZANNE ROBINSON: I think the evidence this morning was that the Animal Research Act is very strong and it is very supported by the industry. I think that is because it has a strong set of rules. The department accredits establishments. It also accredits the use of supplying animal research. Generally, the establishments are required to have an animal ethics committee. The legislation prescribes how the ethics committees are structured so that there is a good balance of people sitting on those, and it is the ethics committees that then assess and approve the research authorities. They also have a responsibility to investigate issues and monitor the research. So it is a co-regulatory framework really with the department as the enforcer and compliance but also the establishment and the animal ethics committee have a role as well.

The CHAIR: I do understand. I just cannot see what the benefit is of consolidating it into a bigger Act. I cannot see the benefit. I cannot see that compliance activities are all the same people or the same kind of type of activity.

SUZANNE ROBINSON: In terms of who would be undertaking the compliance, that is the case. As I said before, in terms of bringing it all together, it was to consolidate the aspects of the powers available and the different compliance areas. But, as Tara mentioned, I guess we can have a look at is there benefit in moving it into a separate piece of legislation and carrying over those benefits of the review and getting the consistency of approach across the different animal welfare areas.

The CHAIR: Thanks for giving your perspective.

The Hon. MICK VEITCH: Can I just follow on from that? For clarification, with POCTAA we carried across into this new bill a whole heap of the elements. How much of the animal research legislation did we carry across—the whole lot or were there bits that we did not bring across in this new framework?

SUZANNE ROBINSON: We have carried across the substantive areas around the requirements for licensing for animal research and for committees. Then some aspects that are currently sitting in the Animal Research Act—the intent is to have them carried over into the regulation.

The CHAIR: One more on that. The University of Western Sydney specifically raised the issue that they did not want to have any gap if there was a change in Act. Do you have thoughts about that?

SUZANNE ROBINSON: Unless there is room for improvement we do not think there will be a gap. Also, as Tara mentioned earlier, the intent is that we will be initiating the Act when the regulations are in place as well, so the whole legislative framework in terms of the Act and the regulation will come on at once. We are also looking at carrying over the existing mandatory standards that sit within the three different pieces of legislation as an interim measure, to carry those over so they will remain mandatory standards as they are now, and then we will be reviewing that standards framework. The phase three after the regulations is to look at that framework and what other standards may need to be considered to be mandatory and reviewing those existing standards as well.

TARA BLACK: If I could just add, I think this is one that we will need to take away and have another look at and then perhaps provide some further information to the Committee on—just to check and reflect on the feedback that we have heard this morning. Obviously, as we have said, our intention here is to streamline and modernise things. If it is going to have the opposite effect and it is going to cause confusion or unintended consequences, then that is not what we are aiming to do. But I just would like the opportunity to take that away and reflect on that little bit and perhaps provide some further information back.

The CHAIR: Yes, that is fine.

The Hon. MICK VEITCH: I am not wedded to this. This is just something that has come through my own mind. The researchers this morning seemed pretty convinced. They would just like to have that legislation very clear in the title. That is what they go to. One of the other options is you have a division of the bill just for animal research or you have a regulation just for animal research, so they still go to the animal research regulation of this particular bill. There are pros and cons of that and I know it might sound a bit messy, but that is something. If it is part of the streamlining process, maybe that is a way of doing it.

TARA BLACK: I think that is something we will take a look at and come back to you on.

The CHAIR: In relation to the regulation and the idea that it could be one piece of work—which is great—in terms though of enacting it, is it your thought that the whole thing happens at the same time, because it just means that the slowest sentence in that massive document is going to determine the timing for the entire rest of the regulation?

TARA BLACK: I am not sure if we have got an idea of how long the regulation is going to be.

The CHAIR: Could it be proclaimed in seriatim? I know that is clauses of the bill. I do not know how you—

TARA BLACK: We are planning to do that with the standards. Obviously, if we were to review and remake all the standards that sit below the regulation, we would never turn this Act on because that is a continuous process.

The CHAIR: Exactly.

TARA BLACK: We can definitely have a look at it. I think there are some things that we can just refer as transition and savings and then we can have a look at that as well if that is going to save time. We probably just need to think about whether that would actually save any time. If it is just a replication of what we have now, we

can probably move those parts forward pretty quickly. But we are happy to consider that as part of the process as well.

The Hon. MICK VEITCH: This morning we discussed the aggravated cruelty provisions within the bill—for the life of me I cannot remember which submission—but there was discussion around the process of escalation to aggravated cruelty and also premeditation, for instance. Is there any reason why we did not include those elements in the bill? Are they something that could be considered, particularly given this morning's evidence?

CLEM HARRIS: The offences that are in the bill, as is the case in POCTAA, are mostly strict liability offences. So they do not have that mental element nor the requirement to prove it in court. I would just point out, though, the Crimes Act is where the more serious animal cruelty offences sit and that is reckless animal cruelty or with the intent element that you are talking about there. The way that we have structured the offence provisions in this bill is to escalate. You have a minimum care requirement offence. If the impact on the animal is more severe, then it is cruelty. Then it is aggravated cruelty. Then it is reckless animal cruelty and then intentional animal cruelty.

The Hon. EMMA HURST: Can I just clarify from that, adding a mental element to aggravated cruelty would be very difficult to prove in court. Is that your understanding as well? It would actually make aggravated cruelty even more difficult. I am assuming that this would have come across your table—how difficult it is already to prosecute for animal cruelty. Because animals cannot speak and they are not witnesses, it is always going to be a difficult court case to have. Adding more difficulty such as a mental element to aggravated cruelty would make that even more difficult. Is that right?

CLEM HARRIS: Yes, that is right. The conversations we had with the RSPCA were around the enforceability of the provisions. Their advice was with the strict liability offences in POCTAA that is what works well for them. As I said, we will have the alternative verdict provisions.

The Hon. EMMA HURST: Yes, so things can go down, which is really good. I am really happy with that element.

The CHAIR: Without getting into a big discussion about different methods of artificial insemination, the Committee does seem to have spent a lot more time on it than I think we imagined that we would. I just wondered if you could give us your take on what is going on with all of that, because what has happened now is stakeholders have seen that we have been discussing that and so now people are wanting to make sure that their views on it are heard. Could you just put us in the clear about where that is and if that is still in the draft exposure bill or not.

TARA BLACK: I am happy to talk through the process, and maybe the time line a little bit, of how that has appeared in the draft bill.

The CHAIR: Can I just clarify—only to the extent that we need to know about it. We are not inquiring into how this happened, and we are not obsessed with that issue at all.

TARA BLACK: Sure. This was not a proposal that we specifically tested in the discussion paper that we put out, but it did come up through a number of the stakeholder submissions to the discussion paper. We put it into the draft bill because those submissions sounded like they had merit, and so we put it in there to test it. As I said before, this is a bit of an unusual process where, ordinarily and with more time, we would have done the rounds of some further stakeholder consultation. We just did not have the opportunity to do that.

On top of that, a number of the stakeholders were pretty keen to see a draft bill. Commenting on draft discussion papers and proposals is good, but people want to see what is spelt out in draft legislation. It appeared for the first time to some stakeholders in the draft bill, so there was a fair bit of social media attention and some concerns from stakeholders raised about that. That is the point at which the Minister met with a range of different stakeholders and formed that view of that provision, which was to change cervical AI from being a restricted act of veterinary science—which it is currently—to being a banned, prohibited act. That was the proposed change. What the Minister has said is that we will not be making that change, so surgical AI will remain a restricted act of veterinary science. That position is supported by a number of stakeholders.

The CHAIR: Okay, I think I am getting this. Because that is the current position, it has been easier just to take it out. As long as it is there, it is going to give the opposite impression.

TARA BLACK: That is right.

The CHAIR: So the draft bill that is now on the website perhaps reflects that change.

TARA BLACK: There is only one version of the draft bill that exists, so the version that is before the Committee and on the website proposes to change it from a restricted act to a prohibited act. What we are saying is we will not be making that change and it will remain a restricted act of veterinary science, which is the status quo.

The CHAIR: Does the draft bill that we are reviewing have it in it or not? It is fine if it is in it; we just note that it is going to be removed. That is very easily dealt with.

TARA BLACK: That is right. The change has been made since we published the draft bill, and we have not updated the draft bill.

The CHAIR: Okay, so we might treat it in that manner, if you are happy with that.

TARA BLACK: Yes. The next version of the bill will clarify what we are proposing to do going forward.

The CHAIR: Absolutely, and we know where we stand in relation to all of that.

The Hon. EMMA HURST: You can say no if you like, but is there any chance of giving us a very rough guideline for a time line for those regulations in the next draft?

TARA BLACK: Yes, we are definitely happy to provide you with any additional information that might be helpful. We can have a go at a draft time line and, at the very least, a process.

The Hon. EMMA HURST: That would be really useful.

TARA BLACK: To a certain degree, it does depend on what the interim report says and how the Government might respond to that. But, yes, definitely happy to give you our best estimate of what the process would look like from here.

The Hon. EMMA HURST: Thank you.

The CHAIR: The evidence we have taken so far reflects the stakeholders that have made submissions to our inquiry. Do you think that there are issues in the bill that we should be looking at that have not come up? Are there matters that the Government feels that it could be of benefit for the Committee to look at? What are we missing?

TARA BLACK: I am not sure if Clem has any thoughts on this one, but I do agree that the evidence that has been provided to the Committee at the hearings is at least a slice of the feedback that we have heard on the discussion paper and through the submissions on the draft bill. I would not say that the evidence in the hearings is the full picture of everybody's feedback. The bill is—I am not sure how many pages long. It is pretty long; there is a lot in there. As I said earlier, a lot of the comments and feedback that we have received on it are actually raising issues with the existing laws rather than the changes that we are proposing, which has been an interesting and surprising feature to us.

The CHAIR: Is there a guide to what the changes are?

TARA BLACK: The discussion paper that we put out last year is a very good plain English overview of what at that point was proposed to be in the bill and why. As we just spoke about surgical AI, there are a small number of new things that were added between the discussion paper and the draft bill as a result of stakeholder feedback. But, broadly, the discussion paper is a really good guide to what is in the bill. As I said, if there is any further information that would be helpful then we are very happy to provide that to the Committee, in terms of plain English explanations or additional information to help understand what is in there.

CLEM HARRIS: Can I just add to that? As Tara said, you have heard a lot of different views in the hearings and you have also got some comprehensive submissions made to the inquiry website. We also did publish a consultation outcomes report early this year which summarises the feedback that we had on those 20 key proposals that are the key changes that have gone into the bill. As part of the public consultation on that, we had about 4,800 submissions. Lots of them said the same sorts of things, so we have drawn out the themes and the types of feedback in that report. That is on the DPI website.

The CHAIR: Is there anything in relation to the evidence that we have received that you want to add comment to?

TARA BLACK: I might let the others go first on that one.

MATTHEW TUTT: No, thank you.

JULIET CORISH: No, I do not think so.

The CHAIR: I thank all of the witnesses for coming forward. As a Committee, we really value this opportunity to be involved in reviewing legislation before the concrete has hardened. There are many views around this table, and we are all appreciative of that opportunity and are trying to be constructive in our approach. We look forward to putting some thoughts through to you by the end of May.

The Hon. MICK VEITCH: Thank you for the challenge.

The CHAIR: I will close the hearing for today. If there are any questions taken on notice, the secretariat will be in touch with you when the transcript is available and there will be 21 days to respond. Thank you again.

(The witnesses withdrew.)

The Committee adjourned at 16:26.