



24-0220

15 March 2024



Department for Environment and Water

Via email: [Redacted]

Dear [Redacted]

**Re: Review of the *Animal Welfare Act 1985***

Thank you again for meeting with Livestock SA Vice President, Allan Piggott and me on 20 February 2024 to discuss the findings from the consultation process and the department's initial positions on the Bill currently being drafted.

We provide the following written feedback on the discussion paper ('Updating the Animal Welfare Act – stakeholder conversations') that was provided at our February meeting in addition to the verbal feedback provided that day.

**1. Updating the 'purpose' and include 'objects' to the Act**

Livestock SA supports improving the clarity for interpretation of the *Animal Welfare Act 1985*. The purpose and intention of this Act for the promotion of animal welfare must be clear and distinguished from other purposes, such as animal rights.

The example provided in the discussion paper includes recognition that *animals are living beings that can feel, perceive and experience positive and negative states*. It is important that while this wording implies animal sentience, the term 'sentience' is not included in the Act, either directly or indirectly referenced.

**2. Recognise animal sentience**

Livestock SA supports science-based animal welfare policies and legislation; however, the term sentience is too broad and has different meanings to different people. Frequently, the interpretation of what sentience means by some parties is not based on science or evidence and is used for malfeasant purposes.

Wool Producers Australia's (of which Livestock SA is a member) Animal Welfare Policy recognises animal sentience and includes the caveat that sheep do not have the same feelings as humans and can be legally owned for permitted activities, including farming. If the term 'sentience' appears in the South Australian legislation, we would expect this type of clarity is included to ensure there are no unintended consequences for livestock production. The simplest approach is to omit the term.

Further, acknowledging that animals can perceive positive and negative physical and psychological experiences means that it is critical to measure these perceptions on ground-truthed science. Where psychological perceptions are concerned, there is limited knowledge of animal psychological states in all circumstances so further consultation is needed on the intent of this inclusion and how it will be measured and enforced.

We note that multiple categories of what classifies someone as an 'owner' – care, control and/or management – will also be included. The definitions and meanings of duty of care will need to be clearly articulated and easily understood and ensure there are no negative implications with chain of responsibility (CoR) legislation<sup>1</sup>. For example, the duty of care principle could be expanded beyond animal owners to include transporters, saleyards and farm managers so it needs to be clear who has the duty of care at all times.

### **3. Broaden the definition of animal**

Livestock SA supports including the recognition of vertebrate animals not already recognised in the Act, such as fish. The discussion paper example of any member of the subphylum vertebrata (other than a human being) is a suitable definition. The inclusion of further details on the developmental and gestational stages of animals in the regulations is appropriate and we will provide any further comment when they are available.

### **4. Introduce a duty of care provision**

The suggested inclusion of a duty of care is reasonable, provided it is clearly defined, applicable to all relevant parties, and realistic and practical. As stated in our previous submission (26 March 2023), circumstances can vary significantly between livestock producers. Different systems operate across the state out of necessity of the climate experienced and the land that is farmed. For example, the distance an animal needs to walk to access water, the availability of shelter and the type of feed available vary considerably. 'Living conditions' is a broad term that will also vary considerably across different production systems. Other factors, such as access to professional service like veterinarians, is also subject to location. All these factors must be recognised.

Livestock industries already place a positive view on animal welfare through the Australian Sheep and Cattle Animal Welfare Standards and Guidelines<sup>2</sup> which include the requirements for a person... *"to take reasonable actions to ensure the welfare of their sheep/cattle under their care"*. Livestock SA supports these Standards and if a duty of care is included in the South Australian Animal Welfare Act, it should be guided by these standards.

Production animals' living conditions and requirements are different from other species, such as companion animals, and can change depending on the age or needs of the animals. We note that

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<sup>1</sup> The Chain of Responsibility (CoR) is the part of the Heavy Vehicle National Law (HVNL) that makes parties other than drivers responsible for the safety of heavy vehicles on the road. Everyone who works with heavy vehicles - from the business that employs a driver or owns a vehicle, to the business that sends or receives goods, is accountable for the safety of the heavy vehicle, its driver, and its load throughout the journey.

<sup>2</sup> Australian Animal Welfare Standards and Guidelines <https://animalwelfarestandards.net.au/>

this may be addressed by the regulations, and we will provide any further comment when they are available.

In principle, we support the possibility of prescribing care requirements in the regulations in the future as practices and requirements for animals can change and evolve. However, this must only occur following thorough consultation with relevant livestock industry groups, such as Livestock SA, to ensure they are reasonable and fair and align with the Australian Animal Welfare Standards and Guidelines.

#### **5. Improve regulation, oversight, and transparency of the research and teaching sector**

The discussion paper provides little information about the proposal to improve regulation, oversight, and transparency of the research and teaching sector. However, as outlined in the meeting, Livestock SA strongly supports the appropriate use of livestock in research and teaching. We also support the use of livestock in research where there are demonstrated benefits, all other alternatives have been explored and the benefits of involving the animals outweigh any detrimental impacts.

We support the 'Australian code for the care and use of animals for scientific purposes' and its requirement for the application of the 3Rs ('replacement', 'reduction' and 'refinement'), but also that there are circumstances where livestock models are the only way to effectively conduct specific research, such as measuring and monitoring methane emissions or rumen manipulation in cattle, and therefore this must be permitted within the legislation.

Part of the governance considered to ensure the appropriate decisions are made about the use of livestock in research and teaching must include representation of livestock industries on research and ethics committees. The use of livestock in research and teaching differs from that of other species such as laboratory animals. To ensure the use of the animals is appropriate and warranted, there must be members on decision-making committees with sound knowledge of livestock. It is also important that any increased regulation is nationally harmonised before being introduced to ensure South Australian livestock research is not disadvantaged.

#### **6. Increase the ability to administer and enforce the Act**

There is limited information available in the discussion paper regarding this amendment proposal, however, there is mention of updating inspector powers and greater opportunity for intervention, enforcement, and actions against animal welfare offences. As stated in our previous submission, we are supportive of increased penalties for breaches of the *Animal Welfare Act* and believe offences under the Act cannot be tolerated.

In our previous submission, we also recommended a change in the responsibility of livestock animal welfare compliance from the RSPCA to PIRSA, with a threshold of more than five livestock animals falling under the remit of Biosecurity SA due to their expertise in commercial livestock production animals. This would ensure alleged breaches of animal welfare are investigated by personnel with the knowledge to undertake the investigation and result in more appropriate enforcement outcomes. This model is used successfully in other states including Victoria and Tasmania and it is a more appropriate model for livestock animal welfare compliance in South Australia.

The concept of using panels, such as the Stock Welfare Panels approach used in NSW, to improve the animal welfare outcomes for the stock through a structured process is supported in principle. Evidence from this process show that 1/3 of issues are resolved quickly, 1/3 are resolved with education, and 1/3 are more difficult and result in charges. This needs further discussion to work

through several elements including: the disclosure of cases before the panels, the enforceability of the rulings, level of disclosure, the involvement of third parties, the method for calculating compensation for livestock seizures.

## **7. Contemporise the governance and administrative provisions for the Animal Welfare Advisory Committee**

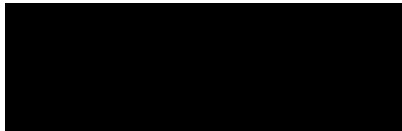
In our previous submission, we outlined our position on the Animal Welfare Advisory Committee (AWAC) and that it needs to have appropriate representation. The level of representation on AWAC for our industry should reflect the percentage that red meat and wool production accounts for the total value of livestock production.

In principle, we support moving to a skills-based committee approach, providing that extensive animal production (red meat and wool) is properly represented on AWAC at all times. We also support the proposed provision of additional advisory committees to AWAC, provided they too have appropriate representation.

The *Animal Welfare Act 1985* is an important piece of legislation for our industry. We support amending the current Act to bring South Australia up to the legislative animal welfare standards that exist in other jurisdictions and current industry practices. The livestock industry is already operating at a high standard under the Australian Animal Welfare Standards and Guidelines, and the South Australian red meat and wool industries continue to drive science-based animal welfare through strategic plans such as the SA Sheep and Beef Industry Blueprints<sup>3</sup>.

We look forward to providing further feedback on the legislative amendments, including the draft Bill and regulations when available.

Yours sincerely



Travis Tobin  
Chief Executive Officer

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<sup>3</sup> South Australian Sheep and Beef Industry Blueprints <https://livestocksa.org.au/industry-development/industry-blueprints>